SECTION 2 of 2

103d Congress Report

HOUSE OF REPRESENTATIVES

2d Session 103-499

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

May 10, 1994.-Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Dellums, from the Committee on Armed Services, submitted the following

REPORT

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 4301]

[Including cost estimate of the Congressional Budget Office]

The committee is disappointed that the reconfiguration of the nuclear weapons complex was reduced in scope to exclude the management and storage of fissile materials. The committee was encouraged, however, that the Secretary initiated the Fissile Material Control and Disposition Project to study this critical matter and issue recommendations. The committee understands that the project will ultimately result in a programmatic environmental impact statement regading the control and disposition of the Department's fissile materials.

The committee does not believe that the project can perform its duties without direct access to adequate budgetary resources. Therefore, the committee has enumerated a specific line-item in section 3103 of the bill for the project, and has recommended authorization of $50 million so that it can proceed expeditiously.

The committee directs the project director to study all feasible storage, treatment, and disposition options for fissile materials related to the nuclear weapons complexes in the United States and in the states of the former Soviet Union (FSU). The recent National Academy of Sciences report on plutonium, "Management and Disposition of Excess Weapons Plutonium," states that Russian fissile materials represent a "clear and present danger" to the national security interests of the United States. The committee firmly believes that a rational storage, treatment and disposition plan for U.S. fissile materials cannot be formulated without considering the storage, treatment, and disposition of Russian fissile materials.

The disposition options shall include, but are not limited to, vitrification, reactor options (including multiple purpose reactors that can produce tritium and/or electricity), accelerator-based options, and long-term storage. The project is encouraged to discuss any or all of these options with the appropriate officials in Russia and other states of the FSU. The project shall also identify and analyze all material control and security requirements for the various storage, treatment and disposition options. Up to $5 million of the $50 million authorized may be used in any manner that will assist Russia in halting the production of plutonium by its three reactors at Tomsk and Krasnoyarsk and obtaining alternative sources of energy.

The director of the project shall also be the Secretary's primary representative to the interagency working group on plutonium disposition that the President pledged to initiate in his address to the United Nations on September 27, 1993. Finally, the committee directs the Secretary to establish clear lines of authority, and make available to the project an appropriate level of human resources in addition to the funding provided in section 3103.

Environmental restoration and waste management program

The Secretary has requested a modest three percent increase over last year's authorization for the Office of Environmental Restoration and Waste Management (EM). This appears to signal the end of a period of growth in this program. The committee appreciates the Secretary's efforts to better manage the EM program and control costs.

The committee believes that, given the fiscal constraints facing the Department of Energy, the EM budget request tries to strike a responsible balance between fiscal necessity and environmentally sound policy. However, the committee, is recommending a $66.363 million reduction (a 1.3 percent cut) by making the following adjustments:

(1) Public Affairs: The committee believes that by streamlining public affairs, where there are currently 330 contractor and 60 Federal employees, the Department can achieve program savings without affecting the implementation of its core remediation and waste management responsibilities. Accordingly, the committee has reduced funding in the operating expenses lines of the environmental restoration, waste management and facility transition elements by $6 million.

(2) Waste Isolation Pilot Plant (WIPP): In the fall of 1993, the Secretary announced that the Department would not begin tests with radioactive materials at WIPP in 1994 as previously planned. Although this announcement triggered a revision to the WIPP budget request, the Department is still seeking level funding at WIPP for fiscal year 1995. A recent DOE Inspector General report found that there were too many employees at WIPP and that some WIPP employees were getting more training than necessary to sustain the program. Therefore, the committee has recommended reducing the waste management operating expenses line by $18,463,000.

(3) Programmatic Environmental Impact Statement (PEIS): Since 1990, the Department has spent between $25 and $56 million to develop the PEIS for environmental restoration and waste management that the Department agreed to develop as a result of litigation. Nevertheless, the Department has not issued the PEIS, and the Department has requested an additional $5 million for fiscal year 1995 for this effort. The committee believes that the Department should complete the PEIS as expeditiously as possible with funds already authorized and appropriated. Accordingly, the committee recommends reducing the operating expenses line within the environmental restoration and waste management elements by $2.5 million each.

(4) Construction Projects: The General Accounting Office has determined that there are funds requested for EM construction projects that will not be needed during fiscal year 1995 because of either ongoing delays or a project's suspension. Therefore, the committee recommends reducing various EM projects for fiscal year 1995 by $36.4 million.

Environmental management productivity and other savings

The Secretary's request of $5,235 million for the Office of Environmental Restoration and Waste Management (EM) activities at defense nuclear facilities assumes that the Department will be able to save $900 million of its projected funding requirements in fiscal year 1995. This sum is split roughly into three pieces:

(1) $240 million of uncosted balances from prior years, which includes projected uncosted balances for fiscal year 1994;

(2) $300 million in "productivity savings," essentially an across-the-board cut based in part on a study that found EM was spending as much as 30 percent more than other Federal agencies for a variety of management services, capital equipment and contractor field activities; and

(3) $360 million in additional savings resulting from changes to several facilities' clean up agreements, changes in the way remedies may be selected at contaminated sites being remediated under the Superfund statute, better oversight of its contractors' spending and other initiatives.

The committee is concerned that it will be difficult for the Department to realize these savings. The committee is also concerned that these assumed savings will erode Congress' and the public's confidence in DOE's ability to remediate these sites and manage its waste in compliance with the law. The committee believes that it is critical for the Department to maximize the amount of funds spent on actual remediation, compliance and pollution prevention activities, because cutting them will reduce confidence in the Department's ability to deliver on its commitments.

DOE representatives have discussed with the committee how they intend to use the projected savings from the Secretary's contract reform initiative to improve program management and support, and how they intend to find substantial portions of the $900 million in savings required to execute the fiscal year 1995 program. The committee supports these reductions.

The committee believes that the reductions it has recommended to DOE's budget request were conservative, and directs the Secretary to examine closely the areas reduced and program support costs generally for further adjustments. Should the Department request permission to reprogram funds for EM at any time during the course of fiscal year 1995, the committee will require that the Secretary report how the Department has implemented the above directions.

In the event that the expected $900 million in savings are not fully realized, the committee urges the Department, to the maximum extent practicable, not to:

(1) Delay performance on milestones in interagency agreements or other legal requirements;

(2) Reduce funding to protect worker safety and health or comply with relevant internal DOE radiation protection orders; or

(3) Avoid its landlord responsibilities, since current expenditures to reduce maintenance costs of buildings no longer needed should provide substantial future costs savings.

Finally, in early 1994, the Secretary signed a revised agreement governing waste management and environmental remediation on the Hanford Reservation. This renegotiated agreement between the Department, the U.S. Environmental Protection Agency and the State of Washington, represents a significant milestone for the EM program.

This renegotiation is the first time that the Department agreed to alter fundamentally previous legal commitments in a way that should produce substantial savings and should address waste management and remediation issues. This displayed a spirit of cooperation never before seen in DOE's clean-up endeavor. The committee commends the Secretary for this achievement and encourages the Secretary to replicate those elements, such as agreements to streamline regulatory reviews and requirements, that can be applied elsewhere to defense nuclear facilities.

Environmental technology development

The committee has indicated that the Department is consistently under-funding the research and technology development that is necessary to produce the advances that will be required to remediate the defense nuclear facilities and to operate them in compliance with environmental requirements. For fiscal year 1995, the Department has requested $447 million, which is less than ten percent of the EM budget. However, even this figure is misleading because only half of that amount would actually be devoted to research. The remainder would be spent on education, training, joint ventures and other activities that, while interesting, are neither critical to EM's mission nor directly related to implementing new and innovative technologies at the defense nuclear facilities. For this reason, the committee recommends that the Secretary reallocates $50 million of the office of technology development's budget to "Research, Development, Demonstration, Testing and Evaluation."

Also, with funds requested for technology development, the Department has requested $20 million for a new office of risk assessment. Based on DOE's budget justification, the committee agrees with that this new office's approach is superior to DOE's previous efforts at analyzing and prioritizing the risks of its facilities. However, the Department has requested $36 million for other risk assessment activities in addition to the new office of risk assessment. The committee finds these requests excessive and redundant and recommends that the Secretary reduce the overall risk assessment budget by $15 million and redirect those funds to the office of technology development's "Research, Development, Demonstration, Testing and Evaluation" program.

Worker transition

In section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484), Congress directed the Secretary of Energy to prepare work force transition plans at every site where there would be worker dislocation as a result of the reconfiguration and downsizing of nuclear weapons production activities. The committee has learned that the Department has allowed its management and operating (M&O) contractors to prepare these plans for at least some of its sites with little or no review by

the Department. This practice is inconsistent with Congress' intent, especially because work force restructuring is an obvious area where the DOE's interests can diverge from the interests of its contractors.

The committee cautions the Department against continuing this practice. In addition, the committee is aware that many of DOE's major M&O contracts will be recompeted or extended within the next 18 months. The committee directs the Secretary of Energy to make implementation of workforce restructuring plans a component of its Request for Proposals for all prospective contractors.

Information officers

In 1993, the Federal Facilities Environmental Restoration Dialogue Committee, a Federal advisory committee sponsored by the U.S. Environmental Protection Agency, issued an interim report. As a member of the committee and a signatory to the report, the Department of Energy agreed to take a series of actions to open DOE's decision-making process regarding the remediation of its contaminated nuclear defense sites. One of these commitments involved the designation of an information officer at each major site who would facilitate the dissemination of information to interested members of the public.

The committee has no evidence that the Department has taken action to fulfill this commitment. The committee also notes that the Department has a large number of public affairs officers but lacks information officers. Accordingly, the committee directs the Department, as a part of the next EM annual report, to explain how it is meeting its commitment to provide information officers at its defense nuclear facilities.

Partnerships for environmental technology education (PETE)

The committee appreciates the Department's support of the Partnerships for Environmental Technology Education (PETE) program over the last several fiscal years. PETE encourages the spread of environmentally sound manufacturing processes through a network that includes DOE facilities, community colleges and the private sector. The committee urges the Department to continue its support of the PETE program and to encourage other Federal agencies to contribute to PETE and recommends a funding level of $1,000,000 for fiscal year 1995.

The committee is impressed with work in the baccalaureate track cooperative education programs in environmental restoration that complement the PETE initiative. Accordingly, the committee allocates $250,000 of the funds authorized in fiscal year 1995 for further development of this program.

Continuous incinerator monitoring

The committee recommends that $1,150,000 of the funds authorized for technology development be used for development of two types of continuous incinerator emission monitoring. Out of these funds, $500,000 should be used by the Argonne National Laboratory to continue development of a continuous emission monitor using Fourier transform infrared spectrometry (FTIR). The remaining funds should be used by Sandia National Laboratory to begin development of a continuous emission monitor using Laser Spark Emission Spectroscopy (LSES) to monitor metal emissions.

Hazardous wastes are or will be incinerated or otherwise thermally treated at several sites within the Department's nuclear weapons complex. There is a need at those facilities for continuous monitoring of effluent emissions to ensure regulatory compliance. Currently, stack gas from the incinerators is tested annually by trial burns to comply with the Resource Conservation and Recovery Act. During the trial burn, the stack gas is sampled for principal organic hazardous constituents and the samples are subjected to laboratory analysis.

The committee understands that a recent test of FTIR at the Oak Ridge Site in Tennessee produced encouraging results and that this technology may be ready for commercial application in 1996. Therefore, the committee recommends that the Secretary continue this program as well as LSES monitoring of toxic metals.

Reduction to program direction funds

The committee recommends a reduction of $15 million in weapons activities program direction, and a reduction of $2 million in program direction for materials support and other defense programs. The committee is appalled by sloppy management practices in a number of areas within the Department, including reprogramming procedures, a failure to respond to congressional inquiries on a wide range of programs, and

a reluctance to follow congressional direction, even when such direction is mandated by law. The committee expects that departmental management practices will improve over the next fiscal year.

Ductile iron casks

The Department is currently evaluating the use of ductile iron casks with a reusable stainless steel sleeve to transport and permanently store vitrified high level waste. These casks are designed to provide safe storage of high level corrosive and radioactive material for up to 100 years. Ductile iron casks are currently being used in Europe to transport and store high level waste. Given the enormous volume of vitrified high level waste that the Defense Waste Processing Facility is expected to produce when it becomes operational, the committee urges the Secretary to accelerate the Department's research and development of ductile iron casks.

Certification on release of restricted data

The committee is aware that later this year, the Department of Energy plans to host an inspection visit of International Atomic Energy Agency (IAEA) officials to the Oak Ridge Y12 plant, Oak Ridge, Tennessee. In an effort to allay concerns that have been expressed regarding the potential for revealing classified information during such inspections, the committee directs that not less than thirty days prior to a planned inspection of a Department of Energy facility by officials representing the IAEA, the Secretary of Energy must certify that, consistent with Section 2014(y) of the Atomic Energy Act of 1954, as amended, no restricted data or classified information will be revealed during such inspections.

Authority to hire new employees at salaries higher than civil service pay scales

The Administration has approved an additional 1200 Federal employee positions for the Office of Environmental Restoration and Waste management to assist it in overseeing budget and contractor activities. To make the best use of these new positions, the Department wants to hire 25 to 30 percent of the employees at salaries above those available through the ordinary civil service salary and wage scales. The committee urges the Department to work with the Offices of Personnel Management and Management and Budget to effect these hires within existing law.

SUBTITLE B-RECURRING GENERAL PROVISIONS

SECTION 3121-REPROGRAMMING

The committee continues to be disturbed by the Department's poor management practices regarding reprogrammings. In the statement of managers accompanying the conference report on the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) (H. Rept. 103-357), the conferees expressed their concern over a departmental reprogramming request that had been submitted in a manner inconsistent with statutory requirements.

The Department again violated statutory reprogramming requirements on February 1, 1994 when it notified the committee that it had initiated construction of a pit reuse facility-a facility that had never been requested or presented to the Congress-using funds available from a program that had been canceled in 1991. This is a flagrant violation of the reprogramming statute and the Department's internal reprogramming procedures. This cannot be allowed to continue.

Therefore, the committee recommends a provision that would reduce the Department's reprogramming flexibility by tightening statutory reprogramming thresholds. The provision would prohibit the reprogramming of funds in excess of 102 percent of the amount authorized for the program, or in excess of $1,000,000 above the amount authorized for the program until the Secretary has notified the congressional defense committees, and a period of 30 days has elapsed after the date on which the report is received. Should the Department demonstrate that it has improved its procedures for handling reprogrammings, the committee would consider returning to a more flexible reprogramming statute in the future.

SECTION 3122-LIMITS ON GENERAL PLANT PROJECTS

Section 3122 would limit the initiation of "general plant projects" authorized by the bill if the current estimated cost for any project exceeds $1.2 million. However, if the Secretary of Energy finds that the estimated cost of any project will exceed $1.2 million, the appropriate committees of Congress must be notified of the reasons for the cost variation.

SECTION 3123-LIMITS ON CONSTRUCTION PROJECTS

Section 3123(a) would permit any construction project to be initiated and continued only so long as the estimated cost for the project does not exceed 125 percent of the higher of: (1) the amount authorized for the project; or (2) the most recent total estimated cost presented to the Congress as justification for such project. To exceed such limits, the Secretary of Energy must report in detail to the appropriate committees of Congress and the report must be before the committees for 30 legislative days.

Section 3123(b) would specify that the 125 percent limitation would not apply to projects estimated to cost under $5 million.

SECTION 3124-TRANSFER AUTHORITY

Section 3124(a) would permit funds authorized to be appropriated by the bill to be transferred to other agencies of the government for performance of work for which the funds were authorized and appropriated. The provision would permit the merger of such funds with the authorizations of the agency to which they are transferred.

Section 3124(b) would limit to no more than five percent the amount of funds that may be transferred between authorizations in the Department of Energy that were authorized pursuant to this act.

SECTION 3125-AUTHORITY FOR CONSTRUCTION DESIGN

Section 3125 would permit the Secretary of Energy to use plant engineering and design funds authorized by the Act, not to exceed $2 million for each project, to carry out construction design services for any construction project. Where the design cost for such planning and design project is estimated to exceed $300,000, the Secretary would be required to notify the appropriate committees of Congress at least 30 days before funds are obligated for design services.

SECTION 3126-REQUIREMENT OF CONCEPTUAL DESIGN FOR REQUEST OF CONSTRUCTION FUNDS

The committee recommends a new recurring provision regarding conceptual designs for construction projects. Section 3126 would limit the Secretary of Energy's authority to request construction funding until the Secretary has certified a conceptual design. The section would provide an exception in the case of emergencies.

SECTION 3127-AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES

Section 3127 would permit, in addition to any advance planning and construction design otherwise authorized by the Act, the Secretary of Energy to perform planning and design utilizing available funds for any Department of Energy national security program construction project whenever the Secretary determines that the design must proceed expeditiously to meet the needs to protect the public health and safety, to meet the needs of national defense or to protect property.

SECTION 3128-FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Section 3128 would authorize, subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this Act for management and support activities and for general plant projects to be made available for use, when necessary, in connection with all national security programs of the Department of Energy.

SECTION 3129-AVAILABILITY OF FUNDS

Section 3129 would authorize, subject to a provision of an appropriation Act, amounts appropriated for "operating expenses" or for "plant and capital equipment" to remain available until expended.

SUBTITLE C-PROGRAM AUTHORIZATIONS, RESTRICTIONS, AND LIMITATIONS

Stockpile stewardship recruitment and training program

Section 3138 of the National Defense Authorization Bill for Fiscal Year 1994 (Public Law 103-160) directed the Secretary of Energy to establish a stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification. Congress directed the creation of this stewardship program out of concern that the U.S. ability to maintain critical and enduring nuclear weapon capabilities was eroding.

The committee notes that the Department, with the support of the DOE defense laboratories, and other executive agencies, has made substantial progress in developing an Administration program for stockpile stewardship with associated program budget requirements necessary to support the objectives of the congressional mandate. The committee is troubled, however, that the Department did not request nearly enough funding for fiscal year 1995 to support the plan. This level of underfunding cannot continue without seriously undermining the Department's ability to fulfill its ongoing stewardship responsibilities. Therefore, the committee directs the Department to submit a stewardship budget request for fiscal year 1996 that is consistent with the program plan developed by the Administration, and reverses the loss of nuclear competence at the laboratories.

The committee is also deeply concerned about the adverse demographic trends at the nuclear weapons laboratories. Notwithstanding statutory direction to the Secretary "to ensure the preservation of core intellectual and technical competencies of the U.S. in nuclear weapons," the Department has not taken measures to develop an inventory of the skills required to support the enduring nuclear weapons mission, nor the skills available within the labs to fulfill those requirements. At the same time, two disturbing trends continue to erode the skill base: (1) early retirement incentives offered at several laboratories have caused a disproportionate number of retirements of senior science professionals in the laboratories' weapons program; and (2) budget cuts and the perception of national ambivalence for the weapons program have hindered the laboratories ability to recruit new professionals.

To address the problem of retention and recruitment within the weapons programs at the laboratories, the committee recommends a provision (sec. 3131) that would establish a stockpile stewardship and training program. The provision also would require a report on the demographics of the weapons laboratories. The committee expects the data required by the report to be aggregated into statistical categories, even though the data must be gathered on an individual basis.

The provision also would require the Secretary, in coordination with the Nuclear Weapons Council and the nuclear weapons laboratories, to provide authority to the laboratory directors to hire or sponsor the research of undergraduate students, graduate students, and postdoctoral fellows for military or nonmilitary programs. The provision would direct the Secretary to allocate $5 million from within the weapons R&D funds for education activities for this purpose. The funds would be equally divided between the three nuclear weapons laboratories.

Finally, the provision would require the Secretary to establish a "retiree corps" under the recruitment and training program in which retired weapons scientists would be employed by the laboratories on a part-time basis. They would help with weapons issues, contribute information to be archived, and help train scientists new to the weapons program.

Intertial confinement fusion program

The committee is dismayed that the Department did not heed the direction on inertial confinement fusion (ICF) in the committee report on H.R. 2401, the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-200), and the Committee on Appropriations' report on the Energy and Water Development

Appropriations Act for Fiscal Year 1994. Both committees recommended that the Department support an efficient upgrade schedule for the OMEGA laser and that it support the work of the Naval Research Laboratory. The Department, however, reprogrammed funding. As a result, funding for the programs the committees recommended were reduced and the ICF activities the committees supported received disproportionate cuts.

The Department never submitted the statutory required reprogramming request before taking this action. These management practices are unacceptable, and must not be repeated in the future.

Finally, the activities of all elements of the current ICF program constitute an important part of the new science-based stockpile stewardship program. Therefore, the committee remains committed to maintaining support for the program. Accordingly, the committee recommends a provision (sec. 3132) that would authorize the budget request of $176,473,000 for the defense inertial confinement fusion program. From those funds, not less than $20,765,000 shall be available for program activities at the University of Rochester and not less than $8,750,000 shall be available for program activities at the Naval Research Laboratory.

Use of funds for payment of penalty

The committee recommends a provision (sec. 3133) that would authorize the Secretary of Energy to pay two civil penalties, each in the amount of $50,000, assessed under consent agreements and compliance orders for the Fernald and Portsmouth facilities, to the Hazardous Substances Response Trust.

Use of funds for certain water management programs

The committee recommends a provision (sec. 3134) that would provide $11.451 million to carry out the fifth and final year of activities agreed to by the Department, the State of Colorado, and the cities of Broomfield, Westminster, Thornton and Northglenn to protect the quality of the local water supplies potentially affected by the Rocky Flats Plant.

Use of funds for worker protection at nuclear weapons facilities

The committee recommends a provision (sec. 3135) that would direct that $11,000,000 of funds authorized for waste management be used to continue the training programs for worker protection. This program was established by section 3131 of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102-190).

Department personnel have included that these training programs, conducted through the National Institute for Environment, Health and Safety, have been useful, effective and successful. In addition, the Department has used the funds in this program to begin drafting a national training curriculum for its workers in conjunction with a secretarial task force that is developing a strategic plan to ensure that nuclear weapons complex workers have adequate training. The committee anticipates, based on representations from DOE officials, that the Department will request continued funding for these training programs in its budget request for fiscal year 1996.

Worker health and protection

Section 3136 would authorize funding for up to $2.5 million to continue studies on radiation effects downwind of the Department of Energy Hanford Site. The study is being conducted pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

Limitation on disbursement of environmental program direction funds

The committee recommends a provision (sec. 3137) that would prohibit the Secretary of Energy from obligating 50 percent of the funds appropriated for environmental management program direction, i.e., Federal management worker salaries and travel expenses, until the Secretary submits to Congress the Baseline Environmental Management Report required by section 3153 of the National Defense Authorization Act for Fiscal year 1994 (Public Law 103-160).

Limitation on use of certain construction funds

The committee recommends a provision (sec. 3138) that would bar the Secretary from obligating funds in fiscal year 1995 for construction projects unless the Secretary has certified the conceptual design for the project by the time the President submits the budget request.

Special access programs

Section 3156 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) requires the Secretary of Energy to submit a report to the congressional defense committees on the special access programs carried out under the atomic energy defense activities of the Department. The first annual report was due on February 1, 1994, but the committee has not received that report.

The committee believes that, in addition to any special access activities carried out but not yet reported to Congress, the Department may also be conducting other classified activities under the designation "limited access" that have similarly not been reported to Congress. Absent any of the reports and supporting budget justification materials that are necessary for oversight of the Department's classified activities in the special access and limited access categories, the committee does not recommend approving funding for such activities. Accordingly, the committee recommends a provision (sec. 3139) that would prohibit the obligation of any funds in support of either special access, or limited access activities within the Department until a report on both special access and limited access activities is received.

Prohibition on prefinancing

The Department's practice of budgeting for the contingency that there will be a lapse of funding authority between fiscal years is called "prefinancing." All government agencies can retain essential personnel in such circumstances, but the Department of Energy is the only government agency that actually budgets for this contingency. In the committee report on H.R. 2401, the National Defense Authorization Act for Fiscal Year 1994 (H. Rept. 103-200) the committee requested that the Department explain its rationale for prefinancing, but the Department has not adequately responded to this request. The committee considers prefinancing a luxury the Department can do longer afford and therefore recommends a provision (sec. 3140) that would prohibit such funding in fiscal year 1995 and all subsequent years.

To adjust for this prohibition, the committee has recommended an increase in the use of prior year balances in the weapons activities and materials support and other defense programs appropriations by the prefinancing amount identified in the Department's "Report on Uncosted Obligations" for fiscal year 1993.

SUBTITLE D-OTHER MATTERS

SECTION 3151-ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS

The committee remains concerned about the Department's continued lack of financial accountability. This provision would require the Secretary to account for the Department's funding within Atomic Energy Defense Activities by discrete fiscal years, beginning with fiscal year 1995. The committee believes this will prove to be a useful management tool, particularly in tracking, controlling and reporting uncosted obligations and prior year balances.

SECTION 3152-APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES

The committee recognizes the importance of the Nuclear Weapons Council and the role that the council plays in establishing Administration policy and objectives regarding nuclear matters. Coordinating research and development (R&D) projects to respond to Department of Defense and Department of Energy requirements and setting priorities to avoid overlap and duplication of initiatives will ensure the most effective use of critical budget allocations. The committee recognizes that nuclear matters continue to require a viable infrastructure and that requirements related to nuclear matters are in a critical state of transition. The committee also recognizes the need for streamlining the process by which the Nuclear Weapons council coordinates the policies and activities of the Departments of Defense and Energy and the intelligence community.

Accordingly, this provision would strengthen the role of the Nuclear Weapons Council as the Administration's focal point for coordinating and approving nuclear weapons study and development activities, and other weapons-related R&D needed to support the enduring nuclear weapon responsibilities of the United States. The provision would require the council to approve all activities conducted by the Department of Energy for the study, development, production and retirement of nuclear warheads, including concept and feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement. The provision also would require the Chairman of the Nuclear Weapons Council to report annually through the Secretary of Energy to the congressional defense committees on all such departmental activities.

SECTION 3153-STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA

The committee recommends a reduction of $30 million to the testing capabilities and readiness portion of the nuclear testing budget in recognition of the one-year extension of the nuclear testing moratorium. The moratorium extension has reduced the workload at the test site and permitted the carryover of prior year funding.

The committee recognizes that the Nevada Test Site will continue to play an important role in the Department's national security program. Therefore, the committee recommends a provision (sec. 3153) that would direct the Secretary to prepare a report assessing the feasibility of conducting other defense-related programs at the Nevada Test Site. The Secretary would be required to issue the report no later than March 1, 1995, which is the same date that the programmatic environmental impact statement (PEIS) on the reconfiguration of the complex is due.

The committee understands that this PEIS has been reduced in scope, and that directing options within the PEIS would violate existing environmental laws and regulations. However, a serious examination of the future of the Nevada Test Site should constitute an integral part of the reconfiguration process and the Secretary is urged to complete the feasibility study in parallel with the PEIS.

SECTION 3154-REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE

This provision would direct the Secretary of Energy to prepare a report that describes the waste streams produced at each step in the production and disposition of nuclear weapons, from the mining of the uranium to the disposition of fissile and other materials from dismantled weapons. It is the committee's intent that the Department present the data in ranges of toxicity and volume, particularly for steps in the process that are variable, such as the mining of uranium ore. The waste streams covered by this report would be those regulated by another statute, including but not limited to the Clean Water Act, the Clean Air Act, the toxic Substances Control Act, the Atomic Energy Act, and the Solid Waste Disposal Act.

For the final steps in the process related to fissile materials disposition, the committee recognizes that the United States has yet to establish a disposition policy. Therefore, it is the committee's intent that the Secretary estimate waste streams for the disposition alternatives under consideration.

Offset Folios 447 to 454 insert here ***TABLE GOES HERE***

TITLE XXXII-DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

LEGISLATIVE PROVISION

SECTION 3201-AUTHORIZATION

Section 3201 would authorize $18.0 million for the Defense Nuclear Facilities Safety Board.

The Defense Nuclear Facilities Safety Board was established by section 1441 of the National Defense Authorization Act for Fiscal Year 1989 (Public Law 100456). The board is responsible for reviewing and evaluating the content and implementation of standards relating to the design, construction, operation and decommissioning of certain defense nuclear facilities of the Department of Energy. The Board recommends to the Secretary of Energy specific measures that should be adopted to ensure that public health and safety are adequately protected.

TITLE XXXIII-NATIONAL DEFENSE STOCKPILE

OVERVIEW

The purpose of the National Defense Stockpile is to supply the military and industry with raw materials during national emergencies. The stockpile was created to preclude U.S. dependence on foreign sources of critical materials during national emergencies. The United States Government has maintained a stockpile of critical materials for this purpose for nearly 50 years.

In 1988, management of the stockpile was transferred from the General Services Administration to the Department of Defense. This transfer gave the Secretary responsibility for, among other things, the acquisition and storage of stockpile materials. The Secretary was also given responsibility for budgeting stockpile operations and for managing the National Defense Stockpile Transaction Fund.

In 1992, officials from the General Accounting Office (GAO) testified that the Department's 1992 Stockpile Requirements Report methodology could not accurately determine stockpile requirements and that some data used in DOD's computer modeling was outdated. The GAO indicated that there should be a range of stockpile requirements calculated, depending upon the risks associated with various DOD assumptions. The GAO also testified that, while these shortcomings cast doubt on the specifics of DOD's requirements goal, changes in the world situation and reductions in the force structure indicate that cautious disposal of some material is prudent.

In the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), Congress addressed the GAO's concerns. Section 3311 requires stockpile planning to be consistent with other areas of defense planning. Although this change had an effective date of October 1, 1994, the committee is concerned that the Department continues to have difficulty in establishing planning factors for the stockpile based on the planning factors for other DOD functions.

STOCKPILING PRINCIPLES

The change to the long standing planning guidance permitted the Department to delete the planning factors that have successfully sustained the stockpile for many years and to establish DOD requirements on "planning guidance issued by the Secretary of Defense." The committee believes this is nonspecific and is subject to constant re-evaluations and changes.

The committee has received testimony that the Department is still in the process of determining what the planning guidance should be and does not know when these important decisions will be made. Previous planning guidance was based on a known threat. The treat in today's post-Cold War era may not be a single entity and is not specifically known. Many of the critical materials in the stockpile can only be purchased from foreign countries that are in major transitions. Therefore, it is difficult to establish solid planning guidance based on so many unknowns.

The committee believes that it is unwise to base decisions concerning national security with an incremental approach. Although the committee agrees that the previous planning factors based on a three-year national emergency may not be realistic at this time, there should be specific criteria established to determine planning factors. The need for the stockpile may not be during an armed conflict, but rather during the critical reconstitution period immediately following a regional conflict. The ability of the nation to reconstitute its forces could be seriously jeopardized by the unavailability of critical materials at a time of great vulnerability.

The committee believes that the Department needs more time to establish planning factors that provide for specific achievable goals which will ensure the availability of critical materials in the future. Therefore, the committee has recommended a provision (sec. 3302) that would repeal the relevant provisions (sections 3311 and 3314) in the 1994 Act. The committee urges the Department to complete its deliberations on establishing planning guidance for the national emergency planning assumptions.

In addition, the committee believes that any planning guidance the Department develops should include a range of conflict scenarios ranging from small to large, including the possible reemergence of a global threat to U.S. national security requiring the reconstitution of U.S. forces to meet such a threat. These factors will be needed to form the basis for calculating the stockpile goals included in the 1995 National Defense Stockpile Requirements Report.

TRANSFER OF FUNDS FROM STOCKPILE SALES

In 1993, Congress authorized the transfer of up to $400 million from the National Defense Stockpile Transaction Fund to the Department of Defense for other purposes, primarily for repair and maintenance of facilities. The National Defense Authorization Act for fiscal year 1994 (P.L. 103160) provides authority for the transfer of $500 million from the transaction fund to the operation and maintenance of the military services. The Department reduced its budget in anticipation of these funds being transferred.

The DOD budget request for fiscal year 1995 contains provisions for the transfer of $150 million from the transaction fund to the services' operation and maintenance (O&M) accounts. The committee is concerned that the program of transferring funds has not been successful. At this time, only $200 million of the fiscal year 1993 funds, and only $100 million of the fiscal year 1994 funds have actually been transferred. The Department has notified Congress of revisions to its proposed disposal plan for fiscal year 1994 based on the need to raise additional funds to meet the deficits it has created with this program. Even with increased authority for additional disposals, it appears unlikely that the entire amount owed to the service accounts will be realized. The underfunding of these accounts, together with additional strains on the O&M accounts, will have a serious impact on the services' ability to complete their projected fiscal year programs.

It would appear to the committee that this program is not working and is in conflict with the basic principals established by Congress for the operation of the stockpile. Therefore, the committee has not included the requested transfer authority and recommends that the Secretary of Defense reassess any future transfer proposals before including them in budget requests.

FERROALLOYS

In 1982, a program was established to upgrade certain materials in the National Defense Stockpile to lessen the amount of stockpiled ores that would need to be converted to ferroalloys during national emergencies. The program was also designed to help maintain existing domestic producers of ferroalloys. The program was limited to chromite and manganese ores.

In 1982, there were 101 ferroalloy producing furnaces in the Untied States, 6 of which were capable of producing high carbon ferrochrome or ferromanganese. Today, the United States has only one operating smelter for each of these ores.

In 1981, the Department of Commerce studied the effect on national security of importing chromium, manganese, and silicon ferroalloys and related materials. The Department of Commerce's investigation concluded that the need to import ferrochrome and ferromanganese posed a threat to national security.

As a result of this study, the President directed that the chromite and manganese ores in the stockpile be upgraded to ferroalloys. The President also directed that the upgrade program be designed to ". . . lessen the amount of stockpiled ore needing conversion into ferroalloy form during time of national emergency" and to "help maintain existing ferroalloy furnace processing capacity."

The National Defense Authorization Act for Fiscal Year 1987 (Public Law 99661) codified the ferroalloy upgrade program and directed that the program continue for 7 fiscal years. The Act also specified the minimum quantities of the ferroalloys to be produced each year.

The ferroalloy program upgrade program will be completed this year. The committee notes that it has been a successful program because its objectives have been achieved.

The committee is concerned, however, by the proposed sale by the National Defense Stockpile of ferrochromium and ferromanganese. These materials would be critical to the defense industry in any future national emergency. The Department has spent considerable sums upgrading raw ores to produce these critical materials for the stockpile based on their strategic necessity. The sole surviving domestic producers of these materials have begun to maintain their capabilities without government assistance. Consequently, it is not a good idea to sell the finished product on the open market which would directly compete with the producers.

Therefore, the committee recommends a provision (sec. 3301) that would prohibit the disposal of ferro chromium and ferro manganese from the National Defense Stockpile until the President certifies that there is a reliable domestic source for the adequate and timely production of these materials in times of a national emergency or a significant mobilization of the Armed Forces. The committee feels strongly that there still is a need for these materials in the stockpile and that sales from the stockpile should not adversely affect domestic industrial capabilities.

DISPOSAL OF ZINC

The Department submitted a revised Annual Materials Plan for fiscal year 1994 which requested authority for the Stockpile Manager to dispose of an additional 25,000 short tons of zinc. The committee has received correspondence from most of the domestic producers of zinc, as well as from several foreign nations including the Delegation of the Commission of the European Communities on this matter. All of the parties have expressed concern that this increased authorization for the disposal of zinc would cause considerable harm to the domestic and international zinc market.

The committee believes that the Market Impact Committee, specifically established by Congress to preclude disposals from the National Defense Stockpile that would likely cause undue domestic or foreign market disruptions, is the proper forum for the resolution of these concerns. However, due to the high level of interest and concern, the committee has deferred recommending approval of the disposal increase and asked the Secretary of Defense to certify that this increased disposal will not cause considerable harm to the zinc market. The Secretary has not made the necessary certification.

Accordingly, the committee has recommended a provision (sec. 3304) that would preclude the disposal of 75,000 short tons of zinc as requested in the Annual Materials Plan for fiscal year 1995, until the President certifies that this disposal would not cause any undue disruption of the usual markets of producers, processors, and consumers of zinc.

LEGISLATIVE PROVISIONS

SECTION 3301-CONDITIONS ON AUTHORITY TO DISPOSE OF CERTAIN STRATEGIC AND CRITICAL MATERIALS

This section would prohibit the disposal of chromium ferro and manganese ferro from the National Defense Stockpile until the President certifies that there is a reliable domestic source for the adequate and timely production of these materials in times of national emergency or significant mobilization of the armed forces.

SECTION 3302-REJECTION OF CHANGE IN STOCKPILING PRINCIPLES

This section would repeal sections 3311 and 3314 of the National Defense Authorization for Fiscal Year 1994 concerning stockpiling principles for the Department of Defense.

SECTION 3303-LIMITATONS ON THE DISPOSAL OF CHROMITE AND MANGANESE ORES

This section would require the National Defense Stockpile to give a right of first refusal to domestic ferroalloy upgraders on any disposals of chromite and manganese ores of metallurgical grade.

SECTION 3304-CONDITIONAL PROHIBITION ON PROPOSED DISPOSAL OF ZINC FROM THE NATIONAL DEFENSE STOCKPILE

This section would prohibit the disposal of 75,000 short tons of zinc from the National Defense Stockpile during fiscal year 1995 until the President certifies that the disposal would not cause any undue disruption of the usual markets of producers, processors, and consumers of zinc.

SECTION 3305-SPECIAL PROGRAM FOR CONVERSION OF LOW CARBON FERRO CHROMIUM TO HIGH PURITY ELECTROLYTIC CHROMIUM METAL

This section would require the conversion of low carbon ferro chromium held in the National Defense Stockpile into high purity electrolytic chromium metal.

TITLE XXXIV-CIVIL DEFENSE

OVERVIEW

The Administration requested $129,658,000 for fiscal year 1995 for activities authorized under the Federal Civil Defense Act of 1950, as amended. The committee recommends authorization of the amount requested.

Civil defense funds are provided to the Federal Emergency Management Agency (FEMA), which administers the civil defense program. The program subsidizes the emergency management infrastructure at the state and local level.

Civil defense programs were originally designed to protect "life and property in the United States from attack." In 1981, the law was amended to permit states to use civil defense funds to prepare for natural disasters "in a manner that. . . . does not detract from attack-related civil defense preparedness." Section 3402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160) eliminated this restriction. The Civil Defense Act now reflects the "all-hazard" approach to emergency management, i.e., states are permitted to use the funds for all kinds of emergencies and disasters.

The committee believes that it should get out of the civil defense business for two reasons. First, the program has lost its defense emphasis. The threat of attack is no longer the driving force behind the program. Rather, the chief threats today come from tornadoes, earthquakes, floods, chemical spills, and the like.

Second, there are too many House and Senate committees (over 20) with legislative jurisdiction over FEMA's activities. This has fragmented oversight of the agency and hampered its ability to perform effectively.

The committee believes two actions will take it out of the civil defense business. First, section 3402 of the bill would repeal the Civil Defense Act (section 2251 et seq. of title 50, United States Code) and place its authorities into the Robert T. Stafford Disaster Relief and Emergency Assistance Act (section 5101 et seq. of title 42, United States Code). The Committee on Publics Works has legislative jurisdiction over the Stafford Act. The committee believes that civil defense programs should be a part of the Stafford Act and that Public works should have legislative jurisdiction over the program.

Second, the committee also believes that portions of FEMA's budget, especially civil defense programs, do not belong in the 050 defense budget account. Accordingly, the committee is working with the Office of Management and Budget, the National Security Council and the House Committee on the Budget to transfer civil defense and other portions of the FEMA budget now included in the 050 budget function to a domestic budget account.

TITLE XXXV-NAVAL PETROLEUM RESERVES

NAVAL PETROLEUM AND OIL SHALE RESERVES

The naval petroleum reserve (NPR) and oil shale reserve (NOSR) were established by a series of Executive Orders between 1912 and 1924 as a future source of liquid fuels for the strategic needs of the military. Two NPRs are located in Bakersfield, California and a third is in Casper, Wyoming. Two NOSRs are located near Rifle, Colorado and a third is in Uintah County, Utah.

Except for brief periods of production, the reserves were largely inactive until Congress, in response to the 1973 Arab oil embargo, passed the Naval Petroleum Reserves Production Act of 1976 (Public Law 94258). The Act required that the petroleum reserves be produced at their maximum efficient rate for a period of six-years, and that produced hydrocarbons be sold at public sale to the highest qualified bidder, or be transferred to the Department of Defense or the Strategic Petroleum Reserve. Subsequent executive orders have authorized continued production through 1997. The production of oil from the oil shale reserves has not been actively pursued because it is too expensive.

From 1976 through 1993, the operation of the NPR has yielded over $12.8 billion in net revenues, and an additional $8 to $12 billion in revenues are expected for the period 1994-2025. Based on 1991 revenues and costs, this program would rank first on the "Fortune 500 List" in profits and as a percentage of sales. Figures for 1992 and 1993 reflect a similar high level of financial performance. All net revenues from the reserves are deposited into the U.S. Treasury.

In accordance with the 1976 Act, the operation of the oil shale reserves has been limited to maintaining the reserves and protecting natural gas reserves from drainage by contiguous private producers. Since 1980, 250 private wells have been drilled on lands contiguous to two NOSR fields. As required by section 7422 of title 10, United States Code, the Department of Energy began to drill offset wells to protect the gas reserves in 1985.

In 1991, Congress provided $10.7 million for protection drilling and established a revolving account to fund additional work with revenues from gas sales from wells completed in 1990 and thereafter. Through 1993, the Department has drilled 19 gas protection wells and participated in 20 communitized wells with industry partners. Additional wells will depend on ongoing evaluations.

The committee is aware of several proposals, none of which have been formally presented to Congress, which change the basic structure of the NPR and the NOSR. These proposals would change the long-standing contract for the operation of one Naval Petroleum Reserve (NPR-1), would form a government corporation to manage the NPR, and would sell a reserve. There are also proposals to modify the operations at the NOSR in Rifle, Colorado that the committee believes would cause a change in the revenue distribution from the sale of natural gas. The committee believes that all of these potential changes in how the reserves are operated will require legislation and/or consideration by the relevant congressional committees.

The committee believes the naval oil petroleum and oil shale reserves are a national asset and a significant generator of revenues to the Treasury. The committee will continue to monitor the operations of these assets carefully. The committee also commends the Secretary of Energy for the efficient and capable operation of the reserves to date.

LEGISLATIVE PROVISIONS

SECTION 3501-AUTHORIZATION OF APPROPRIATIONS

This section would authorize the appropriation of $199,456,000 for fiscal year 1995 for the Department of Energy for the operation of the Naval Petroleum Reserves.

SECTION 3502-PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1995

This section would require the Secretary of Energy to sell petroleum produced from the naval petroleum reserves at establish prices.

OVERSIGHT OF SPECIAL ACCESS PROGRAMS

Under the purview of the Subcommittee on Military Acquisition and Research and Technology, the committee conducted a review of special access programs to determine: (1) why each program was in the special access category; and (2) their funding requirements in fiscal year 1995. The committee notes that the Department of Defense has significantly reduced funding for special access programs since Congress enacted section 119 of title 10, United States Code, in 1987.

The committee does remain concerned about the continued requirement for waived programs as provided for in current law. Therefore, the committee directs the Secretary of Defense to review the requirements for waived programs outlined in section 119 of title 10, United States Code, and to report the findings and justification of the review to the Chairmen and Ranking Members of the Committees on Armed Services of the Senate and House of Representatives by October 1, 1994.

The committee directs the Comptroller of the Department of Defense to provide to the Armed Services Committees of the Senate and House of Representatives a classified report 30 days after the enactment of the annual Defense Appropriations Act on all appropriated but not authorized special access programs. The report should include for each non-authorized program the budget request, the amount authorized and the amount appropriated, including any explanation for the increase.

The committee's recommendations affecting special access programs are contained in the classified annex that accompanies this report.

INTELLIGENCE RELATED ACTIVITIES

As part of its oversight responsibilities for Department of Defense Intelligence Related Activities, the committee reviewed and took action on the Intelligence Related Activities programs included in this bill. In taking this action, the committee reached agreement with the House Permanent Select Committee on Intelligence on the recommended authorization levels for these programs.

The recommended authorization for fiscal year 1995 for the National Foreign Intelligence Program (NFIP) and Tactical Intelligence and Related Activities (TIARA) closely approximates fiscal year 1994 funding levels.

Although the bill contains an authorization of funds for NFIP activities, the committee does not intend that the inclusion of such authorization be considered a specific authorization, as required by section 502 of the National Security Act of 1947, for intelligence programs, projects and activities contained within the National Foreign Intelligence Program.

During its review of the fiscal year 1995 budget request, the committee examined National Foreign Intelligence Programs to determine their relationships to DOD activities. In an era of increasing competition for scarce defense resources, this review sought to identify potential areas of commonality or duplicity, and to encourage more efficient management of those programs that have a direct bearing on national defense. The committee's review has resulted in better coordination between the Congress, the intelligence community and the Department of Defense. This coordinated effort should improve intelligence capabilities and should produce a better intelligence product.

The committee commends Secretary of Defense and the Director of Central Intelligence for their review of NFIP and TIARA programs and the subsequent realignment and reorganization of certain elements of the intelligence budget within the Department of Defense and the intelligence community. The committee is pleased by the coordinated effort to establish the Defense Airborne Reconnaissance Office (DARO) and with the responsiveness in providing Congress with an integrated reconnaissance strategy. Nevertheless, the committee believes that work still needs to be done in this area. The committee expects the Department and the military services to support this effort to focus attention on consolidating and streamlining manned and unmanned airborne reconnaissance assets within a single DOD management office.

Finally, the committee remains concerned about the amount of resources that continue to be directed toward dated signals intelligence architectures. The committee believes that the Department of Defense and the intelligence community are not focusing on practical solutions for attacking and exploiting the Global Communications Network. Consequently, the committee would encourage the Secretary of Defense and the Director of Central Intelligence to develop a focused and deliberate approach to this critical national security issue.

INTELLIGENCE SUPPORT TO THE WARFIGHTER

The importance of timely and accurate intelligence to the planning and conduct of military operations cannot be overstated. Although steps have been taken to identify and implement solutions to the shortfalls identified after the Gulf War, but much remains to be done in this area.

The committee is aware that the U.S. Space Command (USCINCSPACE) has studied ways in which space-based intelligence systems can be better used to support the warfighting commanders-in-chief (CINCs). In recent testimony, the USCINCSPACE General Charles Horner stated:

> [The intelligence community should be] commended for reorienting their services and helping to get greater operator involvement in the [reconnaissance satellite] development, design, and acquisition processes. I have initiated an Integrated Priority List for intelligence systems which will be coordinated with all theater commanders-in-chief and submitted annually to [the Defense Intelligence Agency] and the Joint Chiefs of Staff.

The committee endorses these initial steps, and therefore recommends the following actions. First, CINCSPACE should continue to serve as the focal point among the unified commands for collating a combined operational perspective to give all CINCs an enhanced voice in the space-based intelligence resource allocation process. In the long run, making intelligence more useful and directly available to field commanders should increase the effectiveness of space-based intelligence, decrease costs, and increase military support for these systems.

Second, the committee directs the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to submit a report to the congressional defense committees and the House and Senate intelligence committees by February 1, 1995 that includes the following:

(1) A description of the steps that have been and will be taken to ensure that the future space-based intelligence needs of military commanders are being properly addressed;

(2) A plan for ensuring that military training exercises include utilization and exploitation of space-based intelligence systems to the maximum extent possible; and

(3) A summary of the most recent prioritized list of space-based intelligence systems, as contained in the USCINCSPACE's Integrated Priority List noted above.

FOREIGN MATERIEL ACQUISITION AND EXPLOITATION

The budget request contained $49.9 million in fiscal year 1995 for the Foreign Materiel Acquisition and Exploitation (FMA&E) program (PE 0605117D). This program is involved in the acquisition and exploitation of foreign military equipment and military technology. The committee recommends authorization of the budget request.

The Committee notes that, in addition to the FMA&E program, the services, other Defense agencies, and the intelligence community engage in similar or related activities. The committee is concerned that overall management of these important programs is fragmented. The committee is also concerned that the Department and the community is not sensitive to statutory requirements to test U.S. weapon systems with the information and hardware acquired through the FMA&E program.

Therefore, the committee directs the Secretary of Defense, in coordination with the Director of Central Intelligence, to conduct a comprehensive study of all programs involved in the acquisition and/or exploitation of foreign technology and materiel, including programs related to the acquisition and testing of foreign materiels, and report their findings to the Committees on Armed Services of the Senate and House of Representatives by July 1, 1994. The report should:

(1) Identify each program involved in the acquisition and/or exploitation of foreign technology and materiel;

(2) Describe the interrelationship and funding rationale for the various acquisition and exploitation programs within the Department of Defense, the military services and DOD agencies, and the Intelligence Community, including the CIA Foreign Technology Program; and explain how duplicative tasking is avoided;

(3) Explain why the Department needs to acquire foreign hardware when information may be available through technology acquisition efforts;

(4) Explain the various foreign materiel acquisition priority lists, how they are developed, how they are interrelated and how the acquisition supports statutory developmental testing requirements;

(5) Describe the role of the Director of Operational Test and Evaluation in developing the various materiel acquisition priority lists; and

(6) Provide a plan on how the Department, and the services in particular, expect to exploit all currently acquired assets as well as those acquisitions planned over the Future Years Defense Plan (FYDP).

ENVIRONMENTAL CONSIDERATIONS

The defense facilities of both the Department of Defense and the Department of Energy continue to require massive environmental expenditures. These costs include: the remediation of past contamination; daily operations to conduct defense activities in compliance with environmental requirements; and designing pollution prevention strategies and innovative remediation and compliance technologies so that environmental spending need not continue at its present level in the future.

The fiscal year 1995 environmental budget request for both departments marks a change from the last five years in that neither department sought a significant increase for environmental spending. This change suggests a recognition of the Federal government's tight fiscal constraints and that as these programs have matured, the agencies are learning to control and plan their spending more effectively. While the committee believes that the departments could manage these programs more efficiently, the committee commends the departments for beginning to address the problems in these programs.

There are several factors that will significantly affect the future costs of environmental remediation and compliance activities at defense facilities. First, breakthroughs in technologies and advances in pollution prevention are critical. The committee is concerned that, despite advances in this area, neither department is focusing enough of its resources on research and technology development or on putting aggressive pollution prevention programs into place.

Second, officials from the departments have testified that the costs of the remediation programs would drop dramatically if Congress adopts a Superfund reform package. The package would include the establishment of national clean up standards, it would change the remedy selection process in terms of how future land use is considered, and it would permit the use of generic remedies.

It is unclear whether the Congress will consider such reforms this year. Nonetheless, even when Congress does reauthorize Superfund, it will take several more years for the departments to begin realizing significant savings from the reforms. In the meantime, the committee urges the departments to work assertively with the Environmental Protection Agency and state regulators to do all that is possible within the existing statutory scheme to streamline the remediation process. Moreover, the Departments of Defense and Energy should take other actions that will ensure cost-effective environmental remediation.

Third, both departments rely heavily on contractors to perform remediation activities. For example, Department of Energy contractors are mostly responsible for compliance. Both departments have been examining ways to change their contracting practices to increase efficiency. The committee encourages the departments in these efforts and expects to see tangible progress towards creating efficient systems with adequate departmental oversight starting in fiscal year 1995.

Finally, there are measures that the Departments of Defense and Energy must put into place to enhance their credibility with the public and to increase their public accountability. Both departments have begun to establish public advisory boards at major facilities undergoing remediation. The departments need to broaden these efforts to other sites in a way that ensures that interested citizens have sufficient resources to participate effectively.

Also, while the departments have improved their record in making meaningful information available to citizens in a timely manner, gaps remain. For example, neither department has yet made progress in making budgetary tracking information available to citizens in time for them to provide input during congressional consideration of the budget. Nor has either department designated information officers at their large sites.

The committee believes that if these measures are implemented with the reforms that the departments are already undertaking, this should result in lower remediation costs. If stakeholders are effectively brought into the decision-making process, almost inevitably, an agency will see reductions in delays and litigation, as well as the development of practical remediation solutions.

Offset Folio 472 Insert here ***TABLE GOES HERE***

DEPARTMENTAL DATA

The Department of Defense requested legislation, in accordance with the program of the President, as illustrated by the correspondence set out below:

DEPARTMENT OF DEFENSE AUTHORIZATION REQUEST

OFFICE OF GENERAL COUNSEL,
DEPARTMENT OF DEFENSE,
WASHINGTON, DC, APRIL 22, 1994.

Hon. Thomas S. Foley,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: Enclosed is a draft of legislation "To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and or other purposes."

This proposal is part of the Department of Defense legislative program for the 103d Congress. The Office of Management and Budget advises that the proposed authorizations are in accord with the program of the President and that there is no objection from the standpoint of the President's program to the general provisions of the bill.

Title I of the bill provides procurement authorization for the Military Departments and for the Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal year 1995. Title II provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and the Defense Agencies in amounts equal to the President's budget for fiscal year 1995. Title III provides for authorization of the operation and maintenance accounts of the Military Departments and Defense Agencies and Title IV prescribes the personnel strengths for the active forces and the Selected Reserve of each reserve component of the Armed Forces in the amounts and numbers,

respectively, provided for by the budget authority and appropriations requested for the Department of Defense in the President's budget for fiscal year 1995.

The general provisions of the bill are an omnibus proposal that will aid in the management and operation of the Department of Defense.

Enactment of this proposal is of great importance to the Department of Defense and the Department urges its favorable consideration.

Sincerely,

Stephen W. Preston,
Acting General Counsel.

Enclosure.

MILITARY CONSTRUCTION AUTHORIZATION REQUEST

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
WASHINGTON, DC, APRIL 20, 1994.

Hon. Thomas S. Foley,
Speaker of the House of Representatives,
Washington, DC.

Dear Mr. Speaker: Enclosed is a draft of legislation "To authorize certain construction at military installations for Fiscal year 1995, and for other purposes." This legislative proposal is needed to carry out the President's Fiscal Year 1995 budget plan. The Office of Management and Budget advises that the enactment of this proposal is in accord with the program of the President.

The proposal would authorize appropriations in Fiscal Year 1995 for new construction and family housing support for the Active Forces, Defense Agencies, NATO Infrastructure Program, and Guard and Reserve Forces. The proposal establishes the effective dates for the program. The Fiscal Year 1995 Military Construction Authorization Bill includes construction projects resulting from base realignment and closure actions. Additionally, the Fiscal Year 1995 draft legislation does not include General Provisions.

Sincerely,

Stephen W. Preston,
Acting General Counsel.

Enclosure.

COMMITTEE POSITION

The Committee on Armed Services, on May 5, 1994, a quorum being present, approved H.R. 4301, as amended, by a vote of 55 to 1.

COMMUNICATIONS FROM OTHER COMMITTEES

House of Representatives,
Committee on Education and Labor,
Washington, DC, May 10, 1994.

Hon. Ronald V. Dellums,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

Dear Mr. Chairman: Thank you for your letter of May 9, 1994, concerning the National Defense Authorization Act for Fiscal Year 1995 (H.R. 4301).

Although provisions in title III, relating to education of Department of Defense dependents, and title XI, concerning worker retraining in connection with defense conversion activities, do fall within the jurisdiction of the Committee on Education and Labor, I will not request that H.R. 4301 be sequentially referred to this Committee. I will not do so because of the close cooperation we have received from you and your staff concerning these matters and with the understanding that this will not prejudice this committee's future jurisdiction over these provisions or related matters.

One provision I strongly support is the "Changes in the notice requirement" section in subtitle E of title XI. A similar provision in last year's bill did not survive conference with the Senate, and I look forward to working with you to ensure that is not the case this year. Also, I have concerns with section 353 and 354 of the bill which propose to amend the Defense Dependents' Education Act of 1978. Section 353 would shift authority for establishing and operating a school system for all dependents of military personnel from the

Directors of Dependents' Education. Section 354 would limit the Secretary's authority in establishing tuition fees. I look forward to continuing to discuss these issues with you.

With kind regards.

Sincerely,

William D. Ford,
Chairman.

House of Representatives,
Committee on Merchant Marine and Fisheries,
Washington, DC, May 3, 1994.

Hon. Ronald V. Dellums,
Chairman, Committee on Armed Services, Washington, DC.

Dear Mr. Chairman: I am writing concerning provisions in H.R. 4301, the Department of Defense Authorization Act for Fiscal Year 1995, over which the Committee on Merchant Marine and Fisheries has a jurisdictional interest. These include: Section 522-Coast Guard force reduction transition benefits; Section 523-Extension of Warrant Officer Management Act to Coast Guard; Section 527-Prohibition of retaliatory actions against members of the Armed Forces making allegations of sexual harassment or unlawful discrimination; and Section 621-Change in provision of transportation incident to personal emergencies for members stationed outside the continental United States.

In addition to these specific provisions, the Committee is aware of other measures that concern pay raises and CONUS COLA's for the Coast Guard. Until we have better information about the impact of these additional costs on the Coast Guard's operating budget, we must withhold our clearance. We are, however, willing to endorse the pay raise for the National Oceanic and Atmospheric Administration Corps.

I also understand that an amendment may be offered at markup to include the language of H.R. 3293, a bill prohibiting the imposition of additional charges or fees for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, and the United States Merchant Marine Academy. This bill was referred jointly to our committees.

Finally, Congressman Abercrombie may offer an amendment requiring that vessels supported by the National Defense Sealift Fund be crewed by U.S. citizen merchant mariners unless the Secretary of Defense certifies that no private contractor or mariner is available.

The Committee on Merchant Marine and Fisheries has no objection to the inclusion of any of these provisions in the Defense Authorization bill, and waives its right to seek a sequential referral of these provisions, without prejudice to its jurisdiction over such matters. However, if these provisions are substantially modified during your Committee's markup, or other matters within the jurisdiction of the Merchant Marine and Fisheries Committee are added to H.R. 4301, I reserve the right to seek a sequential referral. Moreover, I would expect Members of the Committee on Merchant Marine and Fisheries Committee to be appointed limited conferees on the matters listed above.

I want to thank you for the very courteous and professional help of your staff, and I look forward to our two committees continuing to work together in the future on issues of mutual concern.

With kind regards.

Sincerely,

Gerry E. Studds,
Chairman.

House of Representatives,
Committee on Science, Space, and Technology,
Washington, DC, May 5, 1994.

Hon. Ronald V. Dellums,
Chairman, Committee on Armed Services,
Washington, DC.

Dear Mr. Chairman: I understand that the Committee on Armed Service will be meeting today to mark up H.R. 4301, the FY95 Defense Authorization Bill. I appreciate the opportunity to review a number of provisions in the bill which appear to also be in the jurisdiction of the Committee on Science, Space, and Technology, including Sec. 211, relating to Space Launch Modernization; Sec. 216, relating to the Advanced Lithography Program; Sec. 218, the Defense Experimental Program to Stimulate Competitive Research; Sec. 3153, relating to the Study of Feasibility of Conducting Certain Activities at the Nevada Test Site; and the

proposed amendment to be offered by Mr. Bilbray relating to planning for a solar energy facility at the Nevada Test Site.

With the exceptions noted below, the Committee is willing to waive a sequential referral of the bill with the understanding that our Committees will exchange letters acknowledging this Committee's jurisdiction and supporting the right of the Committee to participate in the Conference Committee on these provisions.

The Committee has a number of concerns over the proposals relating to the Nevada Test Site. The Committee would not insist on a referral of Section 3153 if it were modified to limit the study to potential military-related uses of the site. References to potential civilian research and development uses in subsections (1), (2), (3), and (6) should be deleted. In addition, if the Bilbray amendment were adopted, the Committee would need to ask for a sequential referral in order to consider the effects of the amendment on the civilian solar energy programs and budgets.

I appreciate your consideration of these requests and look forward to continuing to work with you cooperatively in matters of mutual interest.

Sincerely,

George E. Brown, Jr.,
Chairman.

House of Representatives,
Committee on Public Works and Transportation,
Washington, DC, May 9, 1994.

Hon. Ronald V. Dellums,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

Dear. Ron: Thank you for your letter of May 9, 1994, in which you stated that your Committee has no objection to the transfer of legislative jurisdiction, for purposes of Rule X, clause 1 of the Standing Rules of the House of Representatives, of the Federal Emergency Management Agency (FEMA) civil defense responsibilities from the Committee on Armed Services to the Committee on Public Works and Transportation.

We concur with you that such transfer is predicated on the transfer of the non-defense portions of the FEMA budget out of the 050 budget function and into a domestic budget account. We support the transfer and your Committee's efforts to date with the Office of Management and Budget, the National Security Council and the House Committee on the Budget to achieve this change.

We do want to note, however, that should this two-step process not be worked out, our Committee would request H.R. 4301 not include any amendment to the Stafford Act.

In addition, we have reviewed the entire text of H.R. 4301, the National Defense Authorization Act of FY95, and, based on that, while the amendments to the Stafford Act are clearly within this Committee's jurisdiction, the Committee will not seek a sequential referral of the bill. Failure to seek such referral, however, should in no context be construed as a waiver of our Committee's jurisdiction over the subject matter of portions of H.R. 4301 and of our right to pursue conferees thereon.

I would appreciate your including our exchange of correspondence on this matter in your Committee's report on H.R. 4301.

Sincerely,

Norman Y. Mineta,
Chair, Committee on Public Works and Transportation.

House of Representatives,
Committee on Armed Services,
Washington, DC, May 9, 1994.

Hon. Norman Y. Mineta,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Committee on Armed Services has marked up H.R. 4301, the National Defense Authorization Act for Fiscal Year 1995. Section 3402 of the bill would repeal the Civil Defense Act of 1950 and place its authorities in the Robert T. Stafford Disaster Relief and Emergency Assistance Act. A copy of the bill language is enclosed for your review.

As you know, the committee is interested in getting out of the civil defense business. Too many congressional committees have oversight over the Federal Emergency Management Agency (FEMA). Moreover, civil defense has lost its defense emphasis.

In these circumstances, the committee believes that Public Works and Transportation should have legislative jurisdiction and oversight authority over the civil defense program for purposes of Rule X, clause

1 of the House of Representatives. The committee believes that this legislation is the first step towards achieving this goal.

The second, and most important, step in the process is ensuring that the Office of Management and Budget (OMB) transfers the non-defense portions of the FEMA budget out of the 050 budget function and into a domestic budget account. Currently, civil defense and other pieces of the FEMA budget are included in the 050 function. The committee is working with OMB, the National Security Council and the House Committee on the Budget to effect this change.

You should know, the Parliamentarians have indicated that without the budget function transfer Armed Services will retain jurisdiction over civil defense even though it may be codified in the Stafford Act. Accordingly, both committees have an interest in seeing both steps in the process accomplished.

The Committee on Armed Services acknowledges your committee's jurisdictional interests in section 3402. Nevertheless, I ask that your committee waive any request for sequential referral with respect to the sections described above so that the House can consider the bill without undue delay. Thank you for your cooperation and I look forward to hearing from you in the near future.

Sincerely,

Ronald V. Dellums,
Chairman.

FISCAL DATA

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the committee attempted to ascertain annual outlays resulting from the bill during fiscal year 1995 and the four following fiscal years.

AGENCY ESTIMATES

Following are the estimated outlays by fiscal year as provided by the Department of Defense (DoD), the Federal Emergency Management Agency (FEMA) (for civil defense), the Department of Energy (DoE), and the Defense Nuclear Facilities Safety Board (DNFSB) for the legislation as requested:

[In millions of dollars]

	DoD MilCon	DoD Other	DoE	FEMA	DNFSB
Fiscal year 1995 request	8,356.6	174,139.2	10,580.4	129.8	18.0
Estimated outlays by fiscal year:					
1995	2,189.7	97,710.1	6,333.4	66.1	11.0
1996	2,544.1	42,742.1	3,461.8	53.1	7.0
1997	1,693.1	17,276.1	785.2	10.4	
1998	1,124.9	7,622.9			
1999	520.7	3,798.1			

The committee recommendation is in keeping with the 1990 budget agreement. The bill would provide for sales from the National Defense Stockpile that, according to the Congressional Budget Office, would create a direct spending credit.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives, the estimate prepared by the Congressional Budget Office and submitted pursuant to section 403 of the Congressional Budget Act of 1974 is as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 9, 1994.

Hon. Ronald V. Dellums,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4301, National Defense Authorization Act for Fiscal Year 1995, as ordered reported by the House Committee on Armed Services on May 5, 1994.

The bill would affect direct spending and thus would be subject to pay-as-you-go procedures under the Balanced Budget and Emergency Deficit Control Act of 1985.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely, Robert D. Reischauer.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4301.

2. Bill title: National Defense Authorization Act for Fiscal Year 1995.

3. Bill status: As ordered by the House Committee on Armed Services on May 5, 1994.

4. Bill purpose: This bill would authorize appropriations for 1995 for the military functions of the Department of Defense (DoD) and the Department of Energy. This bill also would prescribe authorized personnel strengths for each active duty and selected reserve component.

5. Estimated cost to the Federal Government: The costs of this bill are shown in Table 1. Costs of the bill would fall under function 050, National Defense, except for certain items noted below.

Direct spending and asset sales.-The direct spending and asset sales in this bill stem primarily from provisions that would authorize the sale or lease of government property, increase fees for the Armed Forces Retirement Home, and increase military retirement and survivor benefits.

Property Transactions.-The bill would authorize the sale, at fair market value, of a portion of the Army Reserve Facility in Rio Vista, California to the City of Rio Vista. This conveyance would be classified as an asset sale that is estimated to total less than $500,000.

The bill also would authorize the Secretary of the Navy to lease properties at Port Hueneme, California and Coronado, California to local entities. Based on information provided by the Navy, CBO estimates that the lease of property at Port Hueneme would increase offsetting receipts by about $300,000 annually. CBO estimates no significant budgetary effect from leasing property at Coronado.

Armed Forces Retirement Home.-Section 361 would more than double the fees paid by residents of the Armed Forces Retirement Home. This constitutes negative direct spending because it increases offsetting receipts. Savings in 1995 would equal $14 million and $62 million over the five years.

Retired Pay and Survivor Benefits.-Section 515 of the bill would provide a discretionary payment to certain physically disabled reservists between the time they leave service and reach the age of 60. This benefit is similar to the severance payment provided to reservists who are involuntarily separated from military service. The provision has an impact on direct spending because more people would be able to retire. Now, many are separated prior to qualifying for retired pay because of their disability. Direct spending for those reservists reaching age 60 would be $40,000 in 1995 and $1.6 million for the five years.

This section would also require any reservist who receives separation pay of $1,950 per year for up to five years, to forfeit an equal amount from their military retirement. Direct spending savings would equal $54,000 in 1995 and $250,000 over the five years.

Section 522 would permit the Coast Guard to allow members to retire with 15 years of service instead of the 20 now required. Estimated costs for these early retirement benefits in 1995 are $400,000, and 2 million for the five years.

Section 523 would extend the Warrant Officer Management Act to members of the Coast Guard. This Act establishes an additional grade (W-5) in the warrant officer structure. Additional costs would be incurred during the five-year period as members retire with more years of service as well as a higher salary history. At this time, however, the Coast Guard has no plans to use this new grade structure.

Section 631 clarifies the calculation of the retired pay base for officers who retire in a grade lower than that held at retirement. It states that a member's pay base may not be based on a rate of basic pay for a grade higher than that at which the member retired. According to DoD, this provision would affect very few members, and would result in negligible savings.

Section 632 would credit the inactive service of active duty enlisted members for computation of retired pay. Currently, enlisted retirees are credited only for active training, whereas officer retirees are credited for

both active and inactive training. According to DoD, approximately 750 enlisted members would be credited an additional 3 months. This provision would result in a five-year cost of $1.3 million.

Section 633 would reduce from eight years to six years the time that a military reservist must serve in addition to any prior service in order to qualify for retirement benefits. CBO estimates that this provision would have no direct spending over the next five years because annuities are not paid to reservists until they reach 60 years of age. The bill would have direct spending implications sometime after that, but the net effect should be small. Greater costs could arise from faster turnover creating more retirees. On the other hand, earlier retirement would be accompanied by lower annuities as they are based on both the reservist's salary and the years of service. Discretionary costs would likely decrease as well. If force levels are unchanged, the individuals who retire early will be replaced by people with fewer average years of service and lower salaries.

Section 635 would allow participants in the Survivor Benefit Plan (SBP) to terminate coverage for a beneficiary who is not a former spouse. Presently, about 3,000 retirees are electing insurable interest coverage with contributions totaling about $5 million. Based on information from DoD, CBO expects this option to have an insignificant budget impact because decreased premiums from current enrollees should be nearly matched by premiums from new enrollees who would participate due to this provision.

Section 641 would repeal the 60-day limitation on payment of deceased members' accrued leave to survivors. According to DoD, in 1993 about 1,000 people died while on active-duty. Eighty percent of these were enlisted personnel. CBO estimates that up to 10 percent of the deceased members would have leave balances of more than 60 days. This estimate assumes that survivors in approximately 100 cases would benefit from this provision, and would receive about $1,500 a case. Thus, this provision would result in annual costs of less than $500,000.

Two sections of the bill would codify current practice with respect to military retirement programs. One provision would reduce the retired pay of a reservist who elects the child-only coverage of the Survivor Benefit Plan (SBP). The other provision would entitle limited duty officers with 18 or more years of service to stay in service until they qualify for military retirement at 20 years of service. CBO expects no budget impact from either provision.

Other Director Spending.-The bill would permit the DoD to admit civilian students to the Foreign Language Center of the Defense Language Institute on a cost-reimbursable basis. This provision results in direct spending with no net cost to the federal government as the amounts collected are expected to equal the amounts disbursed in support of this activity.

TABLE 1.-ESTIMATED COSTS OF THE NATIONAL DEFENSE AUTHORIZATION ACT, 1995, AS ORDERED REPORTED BY THE HOUSE ARMED SERVICES COMMITTEE
[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999
Direct spending:					
Estimated budget authority	(1)	-13	-14	-15	-16
Estimated outlays	(1)	-13	-14	-15	-16
Asset sales:					
Estimated budget authority	(1)	(1)	0	0	0
Estimated outlays	(1)	(1)	0	0	0
Authorizations of appropriations:					
Specific authorizations	191,857	0	0	0	0
Estimated outlays	104,893	48,394	19,771	8,753	4,362
Estimated authorizations	51,338	547	1,293	1,309	1,331
Estimated outlays	48,562	3,022	1,289	1,305	1,326

1Less than $500,000.

Section 386 would extend from December 31, 1994 to December 31, 1995 a demonstration project that allows DoD to sell certain property abandoned on military installations and use the proceeds for Morale, Welfare, and Recreation activities. These asset sales would total less than $500,000 in 1995 and 1996 with direct spending of the same amount. Under budget enforcement rules, the asset sales do not count as deficit reduction, but the direct spending is subject to pay-as-you-go procedures.

Several other provisions would result in direct spending, but have no net budget impact. In general, these sections allow DoD to provide a service and receive reimbursement to cover costs. Both the receipts and the spending of the proceeds would constitute direct spending. CBO is unable to estimate the year-by-year budgetary effects of the sections; however, the effects would net to zero over time. Section 329 would allow DoD depots to provide services outside of the Department of Defense. Section 369 would expand existing authority for DoD to cover expenses incidental to the death of retired members and dependents. Finally, section 713 would expand DoD's ability to collect medical payments from third party insurers and permit them to spend the collections.

Section 365 would abolish the National Board for the promotion of Rifle Practice. The Board currently receives about $1.1 million a year in proceeds from the sale of guns and ammunition. The loss of these receipts would constitute direct spending, but the net effect would be zero because the Board would have spent the funds generated.

AUTHORIZATIONS OF APPROPRIATIONS

The bill specifically authorizes appropriations of $192 billion for 1995 for operation and maintenance, procurement, research, development, test and evaluation, nuclear weapons programs and other DoD programs. The bill authorizes appropriations of $200 million for the Naval Petroleum Reserve (function 270); all other stated authorizations fall under National Defense (function 050.) Related outlays are shown in Table 1.

The bill contains both specific and implicit authorization of appropriations extending beyond 1995 primarily for military personnel costs; Table 2 contains estimates for the amounts authorized and the related outlays. The following sections describe the items shown in Table 2 and provide information about CBO's cost estimates. All estimates assume that funds will be appropriated for the full amount of the authorization and will be available for obligation by October 1, 1994. Outlays are estimated based on historical outlay rates.

Endstrength.-The bill would authorize 1995 endstrengths for active and reserve components of the Defense Department that would cost almost $70 billion. Endstrengths authorized for active-duty personnel would total about 1,526,000-the same as the Administration's request and about 85,000 below the level estimated for 1994.

DoD's reserve endstrength would be authorized at about 979,000 for 1995-the same as the Administration's request, but 46,000 less than the level estimated for 1994. Also, the bill would authorize an endstrength of 8,000 in 1995 for the Coast Guard Reserve, which is 1,000 more than the Administration requested, but 2,000 less than 1994; this authorization would cost $57 million and falls under budget function 400.

Budget function 950-undistributed offsetting receipts-records the receipt of payments from function 050 for military retirement, retirement for DoD's civilian employees, Social Security, and Medicare. The total of about $20 billion shown in Table 2 for function 950 relates to the costs of both civilian and military personnel.

Compensation and Benefits.-The bill would authorize a 2.8 percent pay raise in 1995 for military personnel, 1 percentage point more than contained in the Administration's budget. The pay raise would cost about $448 million in 1995 relative to the request and $1,165 million relative to current rates of pay.

Section 602 would provide a cost-of-living allowance for certain members of the uniformed services (excluding the Coast Guard) assigned to high cost areas in the continental United States (CONUS). The amount of this allowance would be based on the difference in the cost of living between the member's place of duty and the national average. The allowance would be provided to all military members who are stationed in an area where the local cost of living is at least 8 percent higher than the national average. Once fully implemented, annual costs for the allowance would equal about $23 million each year. For 1995, the allowance would be paid for only the last quarter of the year and would total about $6 million.

Section 515 would change the amount and schedule for severance payments to reserve personnel who leave service involuntarily. Currently, eligible reservists receive as many as 5 annual payments of $1,950, until they reach 60 years of age including a full 12 months payment in the year they actually turn 60. This provision would allow DoD to make fewer than 5 payments and would reduce the last payment by prorating it based on birth date. Savings in 1995 would be small-about $14,000-but would total $34 million in 1999.

The bill contains three provisions affecting military compensation. These provisions have much smaller budget impacts than the ones discussed above. Section 603 would increase the pay of members of the Senior Reserve Officers' Training Corps (SROTC) from $100 a month to $150 a month. These higher payments would begin after August 31, 1995. Costs in 1995 would be $1.3 million. for 1996 through 1999, costs total about $16 million a year. Section 611 would increase the special incentive pay for nurse anesthetists from $6,000 to $15,000; costs in 1995 for these new higher payments would be $5.1 million. Section 612 would extend the authority for payments of a retention bonus to aviation officers; costs in 1995 for these payments would be about $12 million.

Another provision of the bill explicitly authorizes appropriations for military personnel of $71,086 million in 1995. Because the costs of other sections of the bill fall short of this level, this section has the effect of raising the authorization by $139 million.

Other Authorizations.-Section 381 would allow the Secretary of Defense to establish a program to offer an incentive to encourage non-federal employers to hire or retain DoD civilains. DoD would provide a $10,000 payment for each such employee. Estimated annual costs would be about $60 million.

Several provisions of title VII would expand coverage under DoD's health care system. Sections 701 and 702 would provide health benefit coverage for children to be adopted by military members. These provisions would affect roughly 1,600 children each year and would cost $2.2 million in 1995 and total almost $13 million over the five years. Section 703 would provide medical and dental care for abused dependents to cover any treatment resulting from the abuse. Costs would be small at about $10,000 per year. Finally, section 704 would expand CHAMPUS to cover the costs of voice prostheses. Estimated costs for this provision are about $200,000 each year.

Section 523 would allow the Coast Guard to provide severance pay to warrant officers. The Coast Guard plans to use this authority to shrink and re-shape its force; this would cost about $4 million a year by 1999.

TABLE 2.-ESTIMATED AUTHORIZATIONS IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1995 AS REPORTED BY THE HOUSE ARMED SERVICES COMMITTEE
[By fiscal year, in millions of dollars]

Category	1995	1996	1997	1998	1999
End strengths:					
Function 050:					
Estimated authorization	69,758	0	0	0	0
Estimated outlays	67,060	2,489	0	0	0
Function 400:					
Estimated authorization level	57	0	0	0	0
Estimated outlays	55	2	0	0	0
Function 950:					
Estimated authorization	-19,870	-1,106	-373	-381	-390
Estimated outlays	-19,870	-1,106	-373	-381	-390
Compensation and benefits:					
Military pay raise:					
Estimated authorization	1,165	1,556	1,576	1,611	1,648
Estimated outlays	1,109	1,534	1,571	1,606	1,643
Conus cost-of-living-allowance:					
Estimated authorization level	6	23	23	23	24
Estimated outlays	5	22	23	23	24

Reserve transition payments:					
Estimated authorization level	(1)	-9	-16	-26	-34
Estimated outlays	(1)	-8	-15	-26	-34
Other compensation and benefits:					
Estimated authorization	18	16	16	16	16
Estimated outlays	17	16	16	16	16
Limit on military personnel appropriations:					
Estimated authorization level	139	0	0	0	0
Estimated outlays	132	7	0	0	0
Non-Federal employment incentives:					
Estimated authorization level	60	60	60	60	60
Estimated outlays	48	60	60	60	60
Other provisions affecting DoD:					
Estimated authorization level	3	3	3	3	3
Estimated outlays	3	3	3	3	3
Coast guard pay and benefits:					
Estimated authorization level	3	4	4	4	4
Estimated outlays	2	3	4	4	4
Total estimated authorizations:					
Estimated authorization level	51,338	547	1,293	1,309	1,331
Estimated outlays	48,562	3,022	1,289	1,305	1,326

6. Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The direct spending costs of this bill that are subject to the pay-as-you-go procedures are shown in the following table.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in outlays	(1)	-13	-14	-15
Change in receipts	(2)	(2)	(2)	(2)

1Less than $500,000.

2Not applicable.

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO cost estimate: None.

10. Estimate prepared by: Elizabeth Chambers, Kent Christensen, Victoria Fraider, Amy Plapp, K.W. Shepherd, and Lisa Siegel.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

The committee generally concurs with the estimate of authorizations as contained in the report of the Congressional Budget Office. The committee would emphasize that the bill generally establishes ceilings for subsequent appropriations and active duty military personnel end strengths. Estimates provided by the Congressional Budget Office assume appropriations will be provided at the maximum level authorized.

INFLATION-IMPACT STATEMENT

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the committee attempted to determine the inflationary impact of the bill.

The committee believes no precise method exists to identify a distinct inflationary impact of the bill.

Because the bill does not provide, for the most part, specific budget authority but rather authorization for appropriations, the precise inflationary impact would depend on the level of appropriations that the Congress approves pursuant to these authorizations. The committee, therefore, concludes that the bill in and of itself would have significant inflationary impact.

OVERSIGHT FINDINGS

With reference to clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

With reference to clause 2(b)(1) of Rule X of the Rules of the House of Representatives, the legislation results from extensive hearings into virtually all aspects of the national defense establishment. These hearings and the resulting legislation, therefore, provide the focus for a substantial portion of the committee's oversight responsibility for national security.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

* * * * * * *

DIVISION A-DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I-PROCUREMENT

* * * * * * *

PART D-PROGRAM TERMINATIONS

* * * * * * *

[SEC. 132. AH-64 HELICOPTER PROGRAM

[(a) In General.-(1) The Secretary of Defense shall terminate new production of AH-64 aircraft in accordance with this section.

[(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of AH-64 aircraft.

[(b) Exceptions.-(1) The prohibition in subsection (a)(2) does not apply to-

[(A) the modification of, or the acquisition of spare or repair parts for, AH-64 aircraft described in paragraph (2);

[(B) completion of the new production aircraft described in paragraph (2)(B); and

[(C) the obligation of not more than $1,487,527,000 from funds made available for fiscal years 1990 and 1991 for not more than 132 new production AH-64 aircraft and for payment of costs necessary to terminate the AH-64 aircraft program.

[(2) The AH-64 aircraft referred to in paragraph (1)(A) are-

[(A) AH-64 aircraft acquired by the Army on or before the date of enactment of this Act;

[(B) AH-64 new production aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Army on or after that date; and

[(C) 132 new production AH-64 aircraft for which funds are available in accordance with subsection (b)(1)(C).

[SEC. 133. AHIP SCOUT AIRCRAFT PROGRAM

[(a) In General.-(1) The Secretary of Defense shall terminate the AHIP Scout aircraft program in accordance with this section.

[(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of AHIP Scout aircraft (OH-58 aircraft modified into the configuration specified in the Army Helicopter Improvement Program described in the Selected Acquisition Report, dated December 31, 1988, relating to the OH-58 helicopter).

[(b) Exceptions.-(1) The prohibition in subsection (a)(2) does not apply to-

[(A) the modification of, or the acquisition of spare or repair parts for, AHIP Scout aircraft described in paragraph (2);

[(B) completion of the installation of AHIP modification kits in the AHIP Scout aircraft described in paragraph (2)(B);

[(C) the obligation of not more than $195,000,000 from funds made available pursuant to section 101(a) for the procurement and installation of AHIP modification kits in not more than 36 AHIP Scout aircraft and for payment of costs necessary to terminate the AHIP Scout aircraft program; and

[(D) the obligation of not more than $200,000,000 from funds appropriated pursuant to an authorization of appropriations for the OH-58D AHIP Scout aircraft program during fiscal year 1991 for procurement of not more than 36 OH-58D Armed AHIP Scout aircraft and for payment of costs necessary to terminate the AHIP Scout aircraft program.

[(2) The AHIP Scout aircraft referred to in paragraph (1)(A) are-

[(A) AHIP Scout aircraft acquired by the Army on or before the date of enactment of this Act;

[(B) AHIP Scout aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Army on or after that date; and

[(C) 36 AHIP Scout aircraft for which funds are available in accordance with subsection (b)(1)(C).]

* * * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

* * * * * * *

DIVISION A-DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * * * *

TITLE II-RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

* * * * * * *

SUBTITLE B-PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 220. ELECTRONIC COMBAT SYSTEMS TESTING.

(a) Detailed Test and Evaluation Before Initial Low-Rate Production.-The Secretary of Defense shall ensure that any ACAT I level integrated or stand-alone electronic combat system and any ACAT I level integrated or stand-alone command, control, and communications countermeasure system is authorized to proceed into the low-rate initial production stage only upon the completion of an appropriate, rigorous, and structured test and evaluation regime. Such a regime shall include testing and evaluation at each of the following types of facilities: computer simulation and modeling facilities, measurement facilities, system integration laboratories, simulated threat hardware-in-the-loop test facilities, installed system test facilities, and open air ranges.

* * * * * * *

[(e) Applicability.-The provisions of subsections (a) and (b) shall apply to any ACAT I level electronic combat system milestone I program and to any command, control, and communications countermeasure system milestone I program that is initiated after the date of the enactment of this Act.]

(e) Applicability.-The provisions of subsections (a) and (b) shall apply to an ACAT I level integrated or stand-alone electronic combat system and to an ACAT I level integrated or stand-alone command, control, and communications countermeasure system regardless of whether development of the electronic combat system or the command, control, and communications countermeasure system, as the case may be, began before, on, or after the date of the enactment of this Act.

* * * * * * *

TITLE III-OPERATION AND MAINTENANCE

* * * * * * *

SUBTITLE F-OTHER MATTERS

* * * * * * *

SEC. 371. SHIPS' STORES.

(a) Conversion to Operation as Nonappropriated Fund Instrumentalities.-Not later than October 1, [1994] 1995, the Secretary of the Navy shall convert the operation of all ships' stores from operation as an activity funded by direct appropriations to operation by the Navy Exchange Service Command as an activity funded from sources other than appropriated funds.

* * * * * * *

(d) Effective Date.-Subsections (b) and (c) of section 7604 of title 10, United States Code, as added by subsection (c), [shall take effect on the date on which the Secretary of the Navy completes the conversion referred to in subsection (a)] shall take effect on October 1, 1994.

* * * * * * *

[SEC. 377. REPORTS ON TRANSFERS OF CERTAIN FUNDS.

[(a) Annual Reports.-In each of 1994, 1995, and 1996, the Secretary of Defense shall submit to the congressional defense committees, not later than the date on which the President submits the budget pursuant to section 1105 of title 31, United States Code, in that year, a report on each transfer of funds that was made from an operation and maintenance account of the Department of Defense for operating forces during the preceding fiscal year. The report shall include the reason for the transfer.

[(b) Midyear Reports.-On May 1 of each of 1994, 1995, and 1996, the Secretary of Defense shall submit to the congressional defense committees a report on each transfer of funds that was made from an operation and maintenance account of the Department of Defense for operating forces during the first six months of the fiscal year in which such report is submitted. The report shall include the reason for the transfer.]

* * * * * * *

TITLE VII-HEALTH CARE PROVISIONS

* * * * * * *

SUBTITLE C-OTHER MATTERS

* * * * * * *

SEC. 731. USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE.

(a) Use of Model.-The Secretary of Defense shall prescribe and implement a health benefit option (and accompanying cost-sharing requirements) for covered beneficiaries eligible for health care under chapter 55

of title 10, United States Code, that is modelled on health maintenance organization plans offered in the private sector and other similar Government health insurance programs. The Secretary shall include, to the maximum extent practicable, the health benefit option required under this subsection as one of the options available to covered beneficiaries in all managed health care initiatives undertaken by the Secretary [after the date of the enactment of this Act] after December 31, 1994.

* * * * * * *

(e) Regulations.-Not later than [February 1, 1994] December 31, 1994, the Secretary shall prescribe final regulations to implement the health benefit option required by subsection (a).

(f) Modification of Existing Contracts.-In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a).

* * * * * * *

TITLE IX-DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

* * * * * * *

SUBTITLE E-COMMISSION ON ROLES AND MISSIONS OF THE ARMED FORCES

* * * * * * *

SEC. 952. ESTABLISHMENT OF COMMISSION.

(a) Establishment.-There is hereby established a commission to be known as the Commission on Roles and Missions of the Armed Forces (hereinafter in this subtitle referred to as the "Commission").

(b) Composition and Qualifications.-(1) The Commission shall be composed of [seven] ten members. Members of the Commission shall be appointed by the Secretary of Defense.

* * * * * * *

SEC. 956. COMMISSION PROCEDURES.

(a) Meetings.-The Commission shall meet at the call of the chairman.

(b) Quorum.-(1) [Four] Six members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

* * * * * * *

DIVISION B-MILITARY CONSTRUCTION AUTHORIZATIONS

* * * * * * *

TITLE XXIII-AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.-Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Gunter Air Force Base Annex	$4,680,00005

* *	* * *	* *
FLORIDA	CAPE CANAVERAL AIR FORCE STATION	$19,200,00005
* *	* * *	* *
	TYNDALL AIR FORCE BASE	[$2,600,000] $8,200,00005
* *	* * *	* *

SEC. 2302. FAMILY HOUSING.

(a) Construction and Acquisition.-Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(8)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation	Purpose	Amount
Alabama	Maxwell Air Force Base	55 units	$4,080,00005
*	* * *	* *	*
FLORIDA	PATRICK AIR FORCE BASE	155 UNITS	$15,388,00005
	TYNDALL AIR FORCE BASE	[INFRASTRUCTURE] 45 UNITS	$5,732,00005
*	* * *	* *	*

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) In General.-Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1993, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of [$2,040,031,000] $2,045,631,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), [$877,539,000] $883,139,000.

* * * * * * *

TITLE XXVI-GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1993, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army-

(A) for the Army National Guard of the United States, [$283,483,000] $289,398,000; and

(B) for the Army Reserve, $101,433,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, [$25,013,000] $33,713,000.

* * * * * * *

TITLE XXVIII-GENERAL PROVISIONS

* * * * * * *

SUBTITLE D-LAND TRANSACTIONS INVOLVING UTILITIES

* * * * * * *

SEC. 2842. CONVEYANCE OF WATER DISTRIBUTION SYSTEM, FORT LEE, VIRGINIA.

(a) Authority To Convey.-(1) The Secretary of the Army may convey to the American Water Company, Virginia (in this section referred to as "American Water Company"), all right, title, and interest of the United States in and to the water distribution system described in paragraph (2).

* * * * * * *

(c) Requirement Relating to Conveyance.-The Secretary may not carry out the conveyance of the water distribution system authorized by subsection (a) unless [Washington Gas Company] American Water Company agrees to accept the system in its existing condition at the time of the conveyance.

* * * * * * *

SEC. 2846. CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

(a) * * *

* * * * * * *

[(f) Reversion.-If the Secretary determines at any time that American Water Company is not complying with the conditions specified in subsection (d), all right, title, and interest of American Water Company in and to the water distribution system conveyed pursuant to subsection (a), including any improvements thereto and any modifications made to the system by American Water Company after such conveyance, and any easements granted under subsection (b), shall revert to the United States and the United States shall have the immediate right of possession, including the right to operate the water distribution system.

[(g)] (f) Description of Property.-The exact legal description of the water distribution system to be conveyed pursuant to subsection (a), including any easements granted with respect to such system under subsection (b), shall be determined in a manner, including by survey, satisfactory to the Secretary. The cost of any survey or other services performed at the direction of the Secretary pursuant to the authority in the preceding sentence shall be borne by American Water Company.

[(h)] (g) Additional Terms and Conditions.-The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) and the grant of any easement under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

* * * * * * *

SUBTITLE E-OTHER MATTERS

[SEC. 2856. RESTRICTIONS ON LAND TRANSACTIONS RELATING TO THE PRESIDIO OF SAN FRANCISCO, CALIFORNIA.

[The Secretary of Defense (or the Secretary of the Army as the designee of the Secretary of Defense) may not transfer any parcel of real property (or any improvement thereon) located at the Presidio of San Francisco, California, from the jurisdiction and control of the Department of the Army to the jurisdiction and control of the Department of the Interior unless and until-

[(1) the Secretary of the Army determines that the parcel proposed for transfer is excess to the needs of the Army; and

[(2) the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report describing the terms and conditions-

[(A) under which transfers of real property at the Presidio will take place; and

[(B) under which the Army will continue to use facilities at the Presidio after such transfers.]

* * * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993

* * * * * * *

TITLE III-OPERATION AND MAINTENANCE

* * * * * * *

PART B-LIMITATIONS

* * * * * * *

SEC. 316. LIMITATIONS ON THE USE OF DEFENSE BUSINESS OPERATIONS FUND.

(a) Management Method.-[During the period beginning on the date of the enactment of this Act and ending on December 31, 1994, the] The Secretary of Defense may manage the performance of the working-capital funds and industrial, commercial, and support type activities described in subsection (b) through the use of a single Defense Business Operations Fund (in this section referred to as the "Fund"). Except for the funds and activities specified in subsection (b), no other functions, activities, funds, or accounts of the Department of Defense may be managed through the Defense Business Operations Fund.

* * * * * * *

PART D-OTHER MATTERS

* * * * * * *

SEC. 343. USE OF PROCEEDS FROM THE SALE OF CERTAIN LOST, ABANDONED, OR UNCLAIMED PERSONAL PROPERTY.

(a) * * *

* * * * * * *

(d) Period of Demonstration Project.-The demonstration project required by subsection (a) shall-

(1) [terminate on December 5, 1994] terminate on December 5, 1995; and

* * * * * * *

(e) Report.-Not later than February 3, [1995] 1996, the Secretary of Defense shall submit a report to Congress describing the results of the demonstration project required by subsection (a).

* * * * * * *

TITLE IV-MILITARY PERSONNEL AUTHORIZATIONS

* * * * * * *

PART B-RESERVE FORCES

* * * * * * *

SEC. 414. PILOT PROGRAM FOR ACTIVE COMPONENT SUPPORT OF THE RESERVES.

(a) * * *

* * * * * * *

(c) Personnel To Be Assigned.-The Secretary shall assign not less than 2,000 active component personnel to serve as advisers under the program. After September 30, [1994] 1996, the number under the preceding sentence shall be increased to not less than 5,000.

* * * * * * *

TITLE XI-WARRANT OFFICER MANAGEMENT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Warrant Officer Management Act".

* * * * * * *

PART B-TRANSITION AND SAVINGS PROVISIONS

* * * * * * *

SEC. 1125. PRESERVATION OF EXISTING LAW FOR COAST GUARD.

[(a) In General.-Notwithstanding any other provision of law, the provisions of sections 555 through 565 of title 10, United States Code, as in effect on the day before the effective date of this title, shall continue to apply to the Coast Guard on and after that date.]

* * * * * * *

TITLE XXII-NAVY

* * * * * * *

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) In General.-Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1991, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of [$1,759,990,000] $1,765,690,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), [$667,700,000] $673,400,000.

* * * * * * *

TITLE 10, UNITED STATES CODE

SUBTITLE A-GENERAL MILITARY LAW

* * * * * * *

PART I-ORGANIZATION AND GENERAL MILITARY POWERS

* * * * * * *

PART I-ORGANIZATION AND GENERAL MILITARY POWERS

* * * * * * *

* * * * * * *

CHAPTER 1-DEFINITIONS

* * * * * * *

§101. Definitions

(a) * * *

* * * * * * *

(d) Duty Status.-The following definitions relating to duty status apply in this title:

(1) * * *

* * * * * * *

(7)(A) The term "active Guard and Reserve duty" means active duty or full-time National Guard duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps or of the National Guard of the United States pursuant to an order to active duty or full-time National Guard duty for a period of more than 180 consecutive days for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

(B) Such term does not include the following:

(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 175 of this title.

(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

(iii) Duty performed in connection with drug interdiction and counter-drug activities under section 112 of title 32.

(iv) Duty performed as a general or flag officer.

(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).

* * * * * * *

CHAPTER 2-DEPARTMENT OF DEFENSE

Sec.

111. Executive department.

* * * * * * *

[116. Annual operations and maintenance report.]

116. Operations and maintenance activities: congressional oversight.

* * * * * * *

[§116. Annual operations and maintenance report]

§116. Operations and maintenance activities: congressional oversight

(a)(1) * * *

* * * * * * *

(3) The Secretary shall include in each such report a comparison of the level of funding for operations and maintenance for the next fiscal year with the level of operations and maintenance funding for each previous fiscal year beginning with fiscal year 1975, using constant dollars and the same standard of comparison for each such fiscal year.

(b) Reports on Transfers of Certain Funds.-(1) Each report required by subsection (a) shall include a report on the following:

(A) Each transfer of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in paragraph (3) between appropriations during the preceding fiscal year, including the reason for the transfer.

(B) Each transfer of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in paragraph (3) within that appropriation for any other such activity during the preceding fiscal year, including the reason for the transfer.

(2) On May 1 of each year, the Secretary of Defense shall submit to the Congress a report on the following:

(A) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in paragraph (3) between appropriations, including the reason for the transfer.

(B) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in paragraph (3) within that appropriation for any other such activity, including the reason for the transfer.

(3) The activities referred to in paragraphs (1) and (2) are the following:

(A) Activities for which amounts are appropriated for the Army for operations and maintenance for operating forces for (i) combat units, (ii) tactical support, and (iii) force-related training/special activities.

(B) Activities for which amounts are appropriated for the Navy for operations and maintenance for operating forces for (i) mission and other flight operations, (ii) mission and other ship operations, (iii) fleet air training, and (iv) ship operational support and training.

(C) Activities for which amounts are appropriated for the Air Force for operations and maintenance for operating forces for (i) primary combat forces, (ii) primary combat weapons, (iii) global and early warning, and (iv) air operations training.

(c) Limitation.-The Secretary of Defense may not transfer an amount that exceeds $20,000,000 of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (b)(3) between appropriations or within that appropriation for any other such activity until-

(1) the Congress is notified of the transfer; and

(2) a period of 30 days elapses after such notification is received.

[(b)] (d) In this section:

(1) The term "combat arms battalions" means, armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

(2) The term "major repair work" means, in the case of any ship to which such subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

* * * * * * *

CHAPTER 3-GENERAL POWERS AND FUNCTIONS

Sec.

121. Regulations.

* * * * * * *

123b. Forces stationed abroad: limitation on number.

* * * * * * *

§123b. Forces stationed abroad: limitation on number

(a) End-Strength Limitation.-No appropriated funds may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 200,000.

(b) Exception for Wartime.-Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(c) Presidential Waiver.-The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

* * * * * * *

§127a. Expenses for contingency operations

(a) * * *

(b) Waiver of Requirement To Reimburse Support Units.-(1) * * *

* * * * * * *

[(3) The total of the unreimbursed sums for all National Contingency Operations may not exceed $300,000,000 at any one time.]

* * * * * * *

(d) Limitation on Source of Funds for Contingency Operations.-The Secretary of Defense may not use amounts in an operation and maintenance operating forces account (known as a budget activity 1 account) in fully reimbursing the Defense Business Operations Fund under a plan referred to in subsection (c).

(e) [Incremental Personnel Costs Account] National Contingency Operation Non-DBOF Costs Fund.-There is hereby established in the Department of Defense a reserve fund to be known as the "National Contingency Operation [Personnel] Non-DBOF Costs Fund". Amounts in the fund shall be available for incremental military personnel costs attributable to a National Contingency Operation and for other costs attributable to a National Contingency Operation for which funds cannot be provided through the Defense Business Operations Fund (or a successor fund), and for no other purpose. Amounts in the fund remain available until expended.

(f) Restriction.-(1) When an operating unit of the armed forces is assigned to carry out an operational mission for which funds were not specifically provided in the budget for the then-current fiscal year, otherwise applicable funding procedures described in paragraph (2) may not be waived unless the operational mission is designated as a National Contingency Operation under subsection (a).

(2) Paragraph (1) applies to a provision of law or a Government accounting practice that requires (or that has the effect of requiring) that when an operating unit of the armed forces receives support services from a support unit of the armed forces that operates through the Defense Business Operations Fund (or a successor fund), that operating unit shall reimburse that support unit (or that fund) for the costs incurred by the support unit (or the fund) in providing such support.

[(f)] (g) Coordination With War Powers Resolution.-This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct a National Contingency Operation or any other operation.

[(g)] (h) GAO Compliance Reviews.-The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense contingency funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

[(h)] (i) Definition.-In this section, the term "National Contingency Operation" means a military operation that is designated by the Secretary of Defense as an operation the cost of which, when considered with the cost of other ongoing or potential military operations, is expected to have a negative effect on training and readiness.

[(d)] (j) Incremental Costs.-For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs that are directly attributable to the operation and that are otherwise chargeable to accounts available for operation and maintenance or for military personnel. Any costs which are otherwise chargeable to accounts available for procurement may not be considered to be incremental costs for purposes of this section.

* * * * * * *

CHAPTER 4-OFFICE OF THE SECRETARY OF DEFENSE

Sec.
131. Office of the Secretary of Defense.

* * * * * * *

[135. Comptroller.]

135. Under Secretary of Defense (Comptroller).

* * * * * * *

§131. Office of the Secretary of Defense

(a) * * *

(b) The Office of the Secretary of Defense is composed of the following:

(1) * * *

* * * * * * *

(4) The [Comptroller] Under Secretary of Defense (Comptroller).

* * * * * * *

[§135. Comptroller]

§135. Under Secretary of Defense (Comptroller)

(a) There is a [Comptroller of the Department of Defense] Under Secretary of Defense (Comptroller), appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The [Comptroller] Under Secretary of Defense (Comptroller) is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31. The [Comptroller] Under Secretary of Defense (Comptroller) shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The [Comptroller] Under Secretary of Defense (Comptroller) shall advise and assist the Secretary of Defense-

(1) * * *

* * * * * * *

(d) The [Comptroller] Under Secretary of Defense (Comptroller) takes precedence in the Department of Defense after the Under Secretary of Defense for Policy.

(e) The [Comptroller] Under Secretary of Defense (Comptroller) shall ensure that the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are each informed, in a timely manner, regarding all matters relating to the budgetary, fiscal, and analytic activities of the Department of Defense that are under the supervision of the [Comptroller] Under Secretary of Defense (Comptroller).

* * * * * * *

§138. Assistant Secretaries of Defense

(a) * * *

* * * * * * *

(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense [and Comptroller], and the Director of Defense Research and Engineering. The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

§139. Director of Operational Test and Evaluation

(a) * * *

* * * * * * *

(c) Within the Office of the Secretary of Defense, the Director reports to the Under Secretary of Defense (Comptroller). The Director shall consult closely with, but the Director and the Director's staff are independent of, the Under Secretary of Defense for Acquisition and Technology and all other officers and entities of the Department of Defense responsible for acquisition.

* * * * * * *

CHAPTER 6-COMBATANT COMMANDS

* * * * * * *

§162. Combatant commands: assigned forces; chain of command

(a) * * *

* * * * * * *

(c) Assignment of Reserve Forces.-(1) Except as provided in subsection (d), reserve component forces shall be subject to paragraphs (1) and (2) of subsection (a) only after being called or ordered to active duty (other than for training) in accordance with chapter 39 and sections 3013, 5013, and 8013 of this title, as applicable.

(2) The Secretary of each military department, in accordance with directives issued by the Secretary of Defense, shall allocate reserve component units under the Secretary's jurisdiction to the combatant command or commands to which it is expected that they may be assigned after being called or ordered to active duty (other than for training).

(3) The commanders of the combatant commands to which a reserve component unit may be assigned after being called or ordered to active duty (other than for training) shall establish standards in the areas of (A) joint training, and (B) readiness to carry out missions assigned to the commanders. The Secretaries of the military departments, in accordance with their responsibilities under chapters 303, 503, and 803 of this title, shall prepare reserve component units to meet the standards established by the commanders of the combatant commands.

(4) As directed by the Secretary of Defense, and notwithstanding paragraphs (1), (2), and (3), reserve component special operations units and personnel designated under section 167(b) of this title may be treated in the same manner as active forces under paragraph (1) of subsection (a).

(d) Authority of Governors Over National Guard.-Nothing in this section shall be construed to limit or otherwise modify the authorities reserved to the Governors of the several States over forces of the National Guard when those forces are not in Federal service.

(e) Definition.-In this section, the term "forces" refers to military units and personnel that the Secretary of a military department has determined, in accordance with the Secretary's responsibilities under chapter 303, 505, or 803 of this title, as applicable, to be prepared for the effective prosecution of war, in accordance with section 3062, 5062, 5063, or 8062 of this title and, therefore, capable of carrying out missions assigned to the commander of a combatant command.

* * * * * * *

§167. Unified combatant command for special operations forces

(a) * * *

* * * * * * *

(k) Budget Support for Reserve Elements.-The budget proposal for the special operations command that is submitted to the Secretary of Defense for any fiscal year may not, without the concurrence of the Secretary of the military department concerned, propose to eliminate, or to significantly reduce the level of funding for, a reserve component special operations unit. The budget proposal for a military department that is submitted to the Secretary of Defense for any fiscal year may not, without the concurrence of the commander of the special operations command, propose funding for special operations forces in the military personnel budget for a reserve component in that military department that has the effect of proposing to eliminate, or to significantly reduce the level of funding for, a reserve component special operations unit.

* * * * * * *

CHAPTER 7-BOARDS, COUNCILS, AND COMMITTEES

* * * * * * *

§179. Nuclear Weapons Council

(a) There is a Joint Nuclear Weapons Council (hereinafter in this section referred to as the "Council") composed of three members as follows:

(1) * * *

* * * * * * *

(3) One senior representative of the Department of Energy [appointed] designated by the Secretary of Energy.

(b)(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member [appointed] designated under subsection (a)(1).

(2) A meeting of the Council shall be chaired by the representative [appointed] designated under subsection (a)(3) whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

* * * * * * *

(d) The Council shall be responsible for the following matters:

(1) * * *

* * * * * * *

(8) Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.

[(8)] (9) Preparing comments on annual proposals for budget levels for research on nuclear weapons and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

[(9)] (10) Providing-

(A) * * *

* * * * * * *

(e) Annual Report.-(1) Each fiscal year, before the preparation of the annual budget request of the Department of Energy, the Chairman of the Council shall submit to the Secretary of Energy a report on the following:

(A) The effectiveness and efficiency of the Council, and of the deliberative and decisionmaking processes used by the Council, in carrying out the responsibilities described in subsection (d).

(B) A description of all activities conducted by the Department of Energy during that fiscal year, or planned to be conducted by the Department of Energy during the next fiscal year, for the study, development, production, and retirement of nuclear warheads and that have been approved by the Council, including a description of-

(i) the concept definition activities and feasibility studies conducted or planned to be conducted by the Department of Energy;

(ii) the schedule for completion of each such activity or study; and

(iii) the degree to which each such activity or study is consistent with United States policy for new nuclear warhead development or warhead modifications and with established or projected military requirements.

(2) Each fiscal year, at the same time as the submission of the President's budget, the Secretary of Energy shall submit the report referred to in paragraph (1), in classified form, to the Committees on Armed Services and Appropriations of the Senate and House of Representatives.

* * * * * * *

CHAPTER 9-DEFENSE BUDGET MATTERS

* * * * * * *

§222. Future-years mission budget

(a) Future-Years Mission Budget.-The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year [at the same time that] within 30 days after the date on which the President's budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31.

* * * * * * *

CHAPTER 12-NATIONAL GUARD BUREAU

§291. National Guard Bureau

(a) National Guard Bureau.-There is in the Department of Defense the National Guard Bureau, which is a joint bureau of the Department of the Army and the Department of the Air Force.

(b) Purposes.-The National Guard Bureau is the channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between (1) the Department of the Army and Department of the Air Force, and (2) the several States.

§292. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade

(a) Appointment.-There is a Chief of the National Guard Bureau, who is responsible for the organization and operations of the National Guard Bureau. The Chief of the National Guard Bureau is appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who-

(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

(2) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

(3) are in a grade above the grade of brigadier general.

(b) Term of Office.-An officer appointed as Chief of the National Guard Bureau serves at the pleasure of the President for a term of four years. An officer may not hold that office after becoming 64 years of age. An officer may be reappointed as Chief of the National Guard Bureau.

(c) Adviser on National Guard Matters.-The Chief of the National Guard Bureau is the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

(d) Grade.-The Chief of the National Guard Bureau shall be appointed to serve in a grade above major general.

§293. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force.

The Secretary of the Army and the Secretary of the Air Force shall jointly develop and prescribe a charter for the National Guard Bureau. The charter shall cover the following matters:

(1) Allocating unit structure, strength authorizations, and other resources to the Army National Guard of the United States and the Air National Guard of the United States.

(2) Prescribing the training discipline and training requirements for the Army National Guard and the Air National Guard and the allocation of Federal funds for the training of the Army National Guard and the Air National Guard.

(3) Ensuring that units and members of the Army National Guard and the Air National Guard are trained by the States in accordance with approved programs and policies of, and guidance from, the Chief, the Secretary of the Army, and the Secretary of the Air Force.

(4) Monitoring and assisting the States in the organization, maintenance, and operation of National Guard units so as to provide well-trained and well-equipped units capable of augmenting the active forces in time of war or national emergency.

(5) Planning and administering the budget for the Army National Guard of the United States and the Air National Guard of the United States.

(6) Supervising the acquisition and supply of, and accountability of the States for, Federal property issued to the National Guard through the property and fiscal officers designated, detailed, or appointed under section 708 of title 32.

(7) Granting and withdrawing, in accordance with applicable laws and regulations, Federal recognition of (A) National Guard units, and (B) officers of the National Guard.

(8) Establishing policies and programs for the employment and use of National Guard technicians under section 709 of title 32.

(9) Supervising and administering the Active Guard and Reserve program as it pertains to the National Guard.

(10) Issuing directives, regulations, and publications consistent with approved policies of the Army and Air Force, as appropriate.

(11) Facilitating and supporting the training of members and units of the National Guard to meet State requirements.

(12) Such other functions as the Secretaries may prescribe.

§294. Chief of National Guard Bureau: annual report

(a) Annual Report.-The Chief of the National Guard Bureau shall submit to the Secretary of Defense an annual report on the state of the National Guard and the ability of the National Guard to meet its missions. The report shall be prepared in conjunction with the Secretary of the Army and the Secretary of the Air Force and may be submitted in classified and unclassified versions.

(b) Submission of Report to Congress.-The Secretary of Defense shall transmit the annual report of the Chief of the National Guard Bureau to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113(c) of this title is submitted to Congress.

§295. Vice Chief of the National Guard Bureau

(a) Appointment.-(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who-

(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

(B) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

(C) are in a grade above the grade of colonel.

(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

(B) The term of the Vice Chief of the National Guard Bureau shall end upon the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

(4) The Secretary of Defense may waive the restrictions in paragraph (2) and the provisions of paragraph (3)(B) for a limited period of time to provide for the orderly transition of officers appointed to serve in the positions of Chief and Vice Chief of the National Guard Bureau.

(b) Duties.-The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

(c) Grade.-The Vice Chief of the National Guard Bureau shall be appointed to serve in a grade above brigadier general.

(d) Functions as Acting Chief.-When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence or disability ceases.

(e) Succession After Chief and Vice Chief.-When there is a vacancy in the offices of both Chief and Vice Chief of the National Guard Bureau or in the absence or disability of both the Chief and Vice Chief of the National Guard Bureau, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty with the National Guard Bureau shall perform the duties of the Chief until a successor to the Chief or Vice Chief is appointed or the absence or disability of the Chief or Vice Chief ceases, as the case may be.

§296. Other senior National Guard Bureau officers

(a) Additional General Officers.-(1) In addition to the Chief and Vice Chief of the National Guard Bureau, there shall be assigned to the National Guard Bureau-

(A) two general officers selected by the Secretary of the Army from officers of the Army National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Army National Guard, with the other serving as Deputy Director, Army National Guard; and

(B) two general officers selected by the Secretary of the Air Force from officers of the Air National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Air National Guard, with the other serving as Deputy Director, Air National Guard.

(2) The officers so selected shall assist the Chief of the National Guard Bureau in carrying out the functions of the National Guard Bureau as they relate to their respective branches.

(b) Other Officers.-There are in the National Guard Bureau a legal counsel, a comptroller, and an inspector general, each of whom shall be appointed by the Chief of the National Guard Bureau. They shall perform such duties as the Chief may prescribe.

§297. Definition

In this chapter, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and Guam and the Virgin Islands.

* * * * * * *

PART II-PERSONNEL

* * * * * * *

CHAPTER 31-ENLISTMENTS

* * * * * * *

§517. Authorized daily average: members in pay grades E-8 and E-9

(a) Except as provided in section 307 of title 37, the authorized daily average number of enlisted members on active duty (other than for training) in an armed force in pay grades E-8 and E-9 in a calendar year may not be more than 2 percent (or, in the case of the Army, 2.5 percent) and 1 percent, respectively, of the number of enlisted members of that armed force who are on active duty (other than for training) on January 1 of that year. In computing the limitations prescribed in the preceding sentence, there shall be excluded enlisted members of an armed force on active duty (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force.

* * * * * * *

CHAPTER 32-OFFICER STRENGTH AND DISTRIBUTION IN GRADE

* * * * * * *

§523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain

(a)(1) Except as provided in subsection (c), of the total number of commissioned officers serving on active duty in the Army, Air Force, or Marine Corps at the end of any fiscal year (excluding officers in categories specified in subsection (b)), the number of officers who may be serving on active duty in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of such fiscal year, exceed a number determined in accordance with the following table:

[Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of:		
	Major	Lieutenant colonel	Colonel
[Army:			
60,000	11,580	7,941	3,080
65,000	12,271	8,330	3,264
70,000	12,963	8,718	3,447
75,000	13,654	9,107	3,631
80,000	14,346	9,495	3,814
85,000	15,037	9,884	3,997
90,000	15,729	10,272	4,181
95,000	16,420	10,661	4,364
100,000	17,112	11,049	4,548
110,000	18,495	11,826	4,915
120,000	19,878	12,603	5,281
130,000	21,261	13,380	5,648
170,000	26,793	16,488	7,116]

Total number of commissioned officers (excluding officers in categories specified in subsection (b)) on active duty:	Number of officers who may be serving on active duty in the grade of: Major	Lieutenant colonel	Colonel
Army:			
60,000	12,380	8,361	3,080
65,000	13,071	8,750	3,264
70,000	13,763	9,138	3,447
75,000	14,454	9,527	3,631
80,000	15,146	9,915	3,814

85,000	15,837	10,304	3,997
90,000	16,529	10,692	4,181
95,000	17,220	11,081	4,364
100,000	17,912	11,469	4,548
110,000	19,295	12,246	4,915
120,000	20,678	13,023	5,281
130,000	22,061	13,800	5,648
170,000	27,593	16,908	7,116
Air Force:			
70,000	13,530	9,428	3,392
75,000	14,266	9,801	3,573
80,000	15,002	10,175	3,754
85,000	15,738	10,549	3,935
90,000	16,474	10,923	4,115
95,000	17,210	11,297	4,296
100,000	17,946	11,671	4,477
105,000	18,682	12,045	4,658
110,000	19,418	12,418	4,838
115,000	20,154	12,792	5,019
120,000	20,890	13,165	5,200
125,000	21,626	13,539	5,381
Marine Corps:			
12,500	2,499	1,388	592
15,000	2,766	1,483	613
17,500	3,085	1,579	633
20,000	3,404	1,674	654
22,500	3,723	1,770	675
25,000	4,042	1,865	695

* * * * * * *

§526. Authorized strength: general and flag officers on active duty

(a) * * *

* * * * * * *

(d)(1) Within the numbers authorized under subsections (a) and (b), there shall be, at a minimum, the following Reserve general and flag officers serving in the National Guard Bureau, the Office of a Chief of a reserve component, or the headquarters of a reserve component command:

Army National Guard of the United States	3 general officers.
Army Reserve	3 general officers.
Naval Reserve	3 flag officers.
Air National Guard of the United States	3 general officers.
Air Force Reserve	3 general officers.

(2) Within the numbers authorized under subsections (a) and (b), there shall be (in addition to the officers specified in paragraph (1)) a Reserve general or flag officer who is assigned as the Military Executive to the Reserve Forces Policy Board.

(e) The limitation of this section does not apply to a reserve general or flag officer who is on active duty for training or who is on active duty under a call or order specifying a period of less than 180 days.

* * * * * * *

CHAPTER 33A-APPOINTMENT, PROMOTION, AND INVOLUNTARY SEPARATION AND RETIREMENT FOR MEMBERS ON THE WARRANT OFFICER ACTIVE-DUTY LIST

* * * * * * *

§571. Warrant officers: grades

(a) The regular warrant officer grades in the [Army, Navy, Air Force, and Marine Corps] armed forces corresponding to the pay grades prescribed for warrant officers by section 201(b) of title 37 are as follows:

Warrant officer grade:

Chief warrant officer, W-5.

Chief warrant officer, W-4.

Chief warrant officer, W-3.

Chief warrant officer, W-2.

Warrant officer, W-1.

* * * * * * *

§573. Convening of selection boards

(a)(1) Whenever the [Secretary of a military department] Secretary concerned determines that the needs of the service so require, he shall convene a selection board to recommend for promotion to the next higher warrant officer grade warrant officers on the warrant officer active-duty list who are in the grade of chief warrant officer, W-2, chief warrant officer, W-3, or chief warrant officer, W-4.

(2) Warrant officers serving on the warrant officer active duty list in the grade of warrant officer, W-1, shall be promoted to the grade of chief warrant officer, W-2, in accordance with regulations prescribed by the Secretary [of the military department] concerned. Such regulations shall require that an officer have served not less than 18 months [on active duty] in the grade of warrant officer, W-1, before promotion to the grade of warrant officer, W-2.

* * * * * * *

§574. Warrant officer active-duty lists; competitive categories; number to be recommended for promotion; promotion zones

(a) The [Secretary of each military department] Secretary concerned shall maintain for each armed force under the jurisdiction of that Secretary a single list of all warrant officers (other than warrant officers described in section 582 of this title) who are on active duty.

(b) The [Secretary of each military department] Secretary concerned may establish competitive categories for promotion. Warrant officers in the same competitive category shall compete among themselves for promotion.

* * * * * * *

(e) A chief warrant officer may not be considered for promotion to the next higher grade under this chapter until the officer has completed three years of service [on active duty] in the grade in which the officer is serving.

§575. Recommendations for promotion by selection boards

(a) * * *

(b)(1) * * *

(2) The number of officers recommended for promotion from below the promotion zone may not exceed 10 percent of the total number recommended, except that the Secretary of Defense and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, may authorize such percentage to be increased to not more than 15 percent.

* * * * * * *

(d) Each time a selection board is convened under section 573(a) of this title to consider warrant officers in a competitive category for promotion to the next higher grade, each warrant officer in the

promotion zone, and each warrant officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion, except for those officers precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title.

§576. Information to be furnished to selection boards; selection procedures

(a) The Secretary [of the military department] concerned shall furnish to each selection board convened under section 573 of this title the following:

(1) * * *

* * * * * * *

(e) The report of the selection board shall be submitted to the Secretary [of the military department] concerned. The Secretary may approve or disapprove all or part of the report.

(f)(1) Upon receipt of the report of a selection board submitted to him under subsection (e), the Secretary concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under this section. [Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (e).]

(2) If, on the basis of a review of the report under paragraph (1), the Secretary [of the military department] concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under this section, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 573 of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with subsection (e).

* * * * * * *

§578. Promotions: how made; effective date

(a) * * *

* * * * * * *

(e) An officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

(f) An officer who has served continuously since the officer subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.

* * * * * * *

§580. Regular warrant officers twice failing of selection for promotion: involuntary retirement or separation

(a)(1) * * *

* * * * * * *

(4)(A) * * *

(B) A warrant officer separated under this paragraph shall receive separation pay computed under section 1174 of this title, or severance pay computed under section 286a of title 14, as appropriate, except in a case in which-

(i) * * *

* * * * * * *

(e)(1) * * *

* * * * * * *

(6) The Secretary of Defense and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy, shall prescribe regulations for the administration of this subsection.

§580a. Enhanced authority for selective early discharges

(a) * * *

* * * * * * *

(e) This section applies to the Secretary of Transportation in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.

§581. Selective retirement

(a) A regular warrant officer [in the Army, Navy, Air Force, or Marine Corps] who holds a warrant officer grade above warrant officer, W-1, and whose name is not on a list of warrant officers recommended for promotion and who is eligible to retire under any provision of law may be considered for retirement by a selection board convened under section 573(c) of this title. The Secretary concerned shall specify the maximum number of warrant officers that such a board may recommend for retirement.

* * * * * * *

§582. Warrant officer active-duty list: exclusions

Warrant officers in the following categories are not subject to this chapter:

(1) * * *

(2) Retired warrant officers on active duty (except those retired warrant officers who were recalled to active duty before February 1, 1992).

* * * * * * *

§583. Definitions

In this chapter:

(1) * * *

* * * * * * *

(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a of title 14.

* * * * * * *

CHAPTER 36-PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

* * * * * * *

SUBCHAPTER I-SELECTION BOARDS

* * * * * * *

§612. Composition of selection boards

(a) * * *

(b) [No officer may be] (1) Except as provided in paragraph (2), an officer may not be a member of two successive selection boards convened under section 611(a) of this title for the consideration of officers of the same competitive category and grade.

(2) With the approval of the Secretary of the military department concerned, an officer may serve as a member on successive consideration of officers of the same competitive category and grade if the second board does not consider the same officer or officers as the first board.

* * * * * * *

CHAPTER 39-ACTIVE DUTY

* * * * * * *

§673b. Selected Reserve; order to active duty other than during war or national emergency

[(a) Notwithstanding the provisions of section 673(a) or any other provision of law, when the President determines that it is necessary to augment the active forces for any operational mission, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, without the consent of the members concerned, to order any unit, and any member not assigned to a unit organized to serve as a unit of the Selected Reserve (as defined in section 268(b) of this title), under their respective jurisdictions, to active duty (other than for training) for not more than 90 days.]

(a)(1) If the President determines that augmentation of the active forces is necessary for an operational mission, the President may provide Reserve activation authority. The period for which a unit or member is ordered to active duty pursuant to Reserve activation authority provided under this paragraph may not be more than 180 days (and is subject to extension under subsection (i)).

(2) If the President determines that augmentation of the active forces may be necessary for an operational mission that the President authorizes to be carried out, the President may, on or after the date on which the President authorizes that mission to be carried out, provide Reserve activation authority with respect to a total of not more than 25,000 members of the Selected Reserve. The period for which a unit or member is ordered to active duty pursuant to Reserve activation authority provided under this paragraph may not be more than 90 days.

(3) The term "Reserve activation authority" means authority provided by the President to the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy to order to active duty (other than for training) without the consent of the members concerned (A) any unit of the Selected Reserve, and (B) any member of the Selected Reserve not assigned to a unit organized to serve as a unit.

(4) This section applies notwithstanding the provisions of section 673(a) of this title or any other provision of law.

* * * * * * *

(f)(1) Whenever the President authorizes the Secretary of Defense or the Secretary of Transportation to order any unit or member of the Selected Reserve to active duty, under the authority of subsection (a), he shall, within 24 hours after exercising such authority, submit to Congress a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of these units or members.

(2) Whenever a unit or member of the Selected Reserve is ordered to active duty under authority provided under subsection (a)(2), the Secretary of Defense or the Secretary of Transportation, as the case may be, shall submit, within 24 hours after issuing such order, a report to Congress, in writing, setting forth the circumstances necessitating the action taken and describing the anticipated use of the units or members ordered to active duty.

* * * * * * *

(i) When a unit of the Selected Reserve, or a member of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, [is ordered to active duty under this section] is ordered to active duty under authority provided under subsection (a)(1) and the President determines that an extension of the service of such unit or member on active duty is necessary in the interests of national security, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy to extend the period of such order to active duty for a period of not more than [90] 180 additional days. Whenever the President exercises his authority under this subsection, he shall immediately notify Congress of such action and shall include in the notification a statement of reasons for the action. Nothing in this subsection shall be construed as limiting the authorities to terminate the service of units or members ordered to active duty under this section under subsection (g).

* * * * * * *

CHAPTER 49-MISCELLANEOUS PROHIBITIONS AND PENALTIES

§983. Retaliatory personnel actions prohibited against members alleging sexual harassment or unlawful discrimination

(a) Prohibition of Retaliatory Personnel Actions.-(1) No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing a communication described in subsection (b)(2) to-

(A) a Member of Congress;

(B) an Inspector General (as defined in subsection (g));

(C) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization; or

(D) any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications.

(2) Any action prohibited by paragraph (1) (including the threat to take any action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

(b) Inspector General Investigation of Allegations of Prohibited Personnel Actions.-(1) If a member of the armed forces submits to the Department of Defense Inspector General (or to the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) an allegation that a personnel action prohibited by subsection (a) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation. The Inspector General of the Department of Defense may not delegate or assign any such investigation to an office or organization within a military department.

(2) A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, sexual harassment or unlawful discrimination.

(3) The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is subject of the allegation.

(c) Inspector General Investigation of Allegations of Sexual Harassment or Unlawful Discrimination.-If the Inspector General considers it necessary, due to evidence of a biased or inadequate investigation of the underlying allegation of sexual harassment or unlawful discrimination, the Inspector General may initiate a separate investigation of that allegation.

(d) Reports on Investigations.-(1) Not later than 30 days after completion of an investigation under subsection (b) or (c), the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense (or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and the member of the armed forces who made the allegation.

(2) In the copy of the report submitted to the member, the Inspector General shall ensure themaximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5.

(3) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (1) within 120 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense (or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and to the member making the allegation a notice-

(A) of that determination (including the reasons why the report may not be submitted within that time); and

(B) of the time when the report will be submitted.

(4) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(e) Correction of Records When Prohibited Action Taken.-(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (a), on the request of the member or former member or otherwise, may review the matter.

(2) In resolving an application described in paragraph (1), a correction board-

(A) shall review the report of the Inspector General submitted under subsection (d);

(B) may request the Inspector General to gather further evidence; and

(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragaph (1)-

(A) may be provided with representation by a judge advocate if-

(i) the Inspector General, in the report under subsection (d), finds that there is probable cause to believe that a personnnel action prohibited by subsection (a) has been taken (or threatened) against the member with respect to a communication described in subsection (b)(2);

(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) the member is not represented by outside counsel chosen by the member; and

(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (d).

(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (a).

(6) If the Board determines that a personnel action prohibited by subsection (a) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

(f) Review by Secretary of Defense.-Upon the completion of all administrative review under subsection (e), the member or former member of the armed forces (except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) who made the allegation referred to in subsection (b)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

(g) Post-Disposition Interviews.-After disposition of any case under this section, the Inspector General shall, whenever possible, conduct an interview with the person making the allegation to determine the views of that person on the disposition of the matter.

(h) Regulations.-The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

(i) Definitions.-In this section:

(1) The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

(2) The term "Member of Congress" includes any Delegate or Resident Commissioner to Congress.

(3) The term "Inspector General" means-

(A) an Inspector General appointed under the Inspector General Act of 1978; and

(B) an officer of the armed forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the armed forces.

* * * * * * *

CHAPTER 53-MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

1031. Administration of oath.

* * * * * * *

1060a. Special supplemental food program.

* * * * * * *

§1060a. Special supplemental food program

(a) Authority.-The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

(b) Federal Payments and Commodities.-For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Defense shall make available, from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(c) Program Administration.-(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criteria published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.

(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

(d) Departures from Standards.-The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

(e) Authorization of Appropriations.-Funds are hereby authorized to be appropriated tothe Department of Defense for operations and maintenance for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.

(f) Regulations.-The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

(g) Definitions.-In this section:

(1) The term "eligible civilian" means-

(A) a dependent of a member of the armed forces residing with the member outside the United States;

(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

(2) The term "national of the United States" means-

(A) a citizen of the United States; or

(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

(3) The term "dependent" has the meaning given such term in subparagraphs (A), (D), (E), and (I) of section 1072(2) of this title.

* * * * * * *

CHAPTER 55-MEDICAL AND DENTAL CARE

§1072. Definitions

In this chapter:

(1) * * *

(2) The term "dependent", with respect to a member or former member of a uniformed service, means-

(A) * * *

* * * * * * *

(D) an unmarried legitimate child[, including an adopted child or stepchild,] who-

(i) * * *

* * * * * * *

(6) The term "child" includes an adopted child, a stepchild, or an unmarried person placed in the home of a member or former member of a uniformed by a State licensed placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member, who otherwise meets the requirements specified in paragraph (2)(D).

* * * * * * *

§1076. Medical and dental care for dependents: general rule

(a) * * *

* * * * * * *

(e)[(1) Subject to paragraph (3), if-

[(A) a member of a uniformed service receives a dishonorable or bad-conduct discharge or is dismissed from a uniformed service as a result of a court-martial conviction for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service; and

[(B) the abused dependent needs medical or dental care for an injury or illness resulting from the abuse,

the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services.]

(1) Subject to paragraph (3), if an abused dependent of a member of a uniformed service described in paragraph (4) needs medical or dental care for an injury or illness resulting from the abuse, the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services.

(2) Subject to paragraph (3), upon request of any dependent of a member of a uniformed service punished for an abuse described in paragraph [(1)(A)] (4), the administering Secretary for such uniformed

service may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of (A) the abuse, or (B) any injury or illness suffered by the abused person as a result of such abuse.

(3) Medical and dental care furnished to a dependent of a member of the uniformed services in facilities of the uniformed services under paragraph (1) or (2)-

(A) * * *

* * * * * * *

(C) shall terminate one year after the date on which the member is discharged or dismissed from a uniformed service as described in paragraph [(1)(A)] (4).

(4)(A) A member of a uniformed service referred to in paragraph (1) is a member who-

(i) receives a dishonorable or bad-conduct discharge or is dismissed from a uniformed service as a result of a court-martial conviction for a criminal offense, under either military or civil law, involving abuse of a dependent of the member; or

(ii) is administratively discharged from a uniformed service as a result of such an offense.

(B) Whether an offense involved abuse of a dependent of the member shall be determined in accordance with regulations prescribed by the administering Secretary for such uniformed service.

§1076a. Dependents' dental program

(a) Authority to Establish Plans.-(1) The Secretary of Defense may establish basic dental benefits plans for [spouses and children (as described in section 1072(2)(D) of this title)] eligible dependents of members of the uniformed services who are on active duty for a period of more than 30 days. Any plan under this section shall provide for voluntary enrollment of participants and shall include provisions for premium-sharing between the Department of Defense and members enrolling in the program.

* * * * * * *

(e) Copayments.-A member whose [spouse or child] eligible dependent receives care under a basic dental benefits plan shall-

(1) * * *

* * * * * * *

(f) Transfer of Member.-If a member who is enrolled in a plan established under this section is transferred to a duty station where dental care is provided to the member's [spouse or children] eligible dependents under a program other than a plan established under this section, the member may discontinue participation under the plan established under this section. If the member is later transferred to a station where dental care is not provided to such member's [spouse or children] eligible dependents except under a plan established under this section, the member may re-enroll in such a plan.

* * * * * * *

(h) Eligible Dependent Defined.-In this section, the term "eligible dependent" means a spouse, child, or dependent described in section 1072(2)(I) of this title of a member of the uniformed services who is on active duty for a period of more than 30 days.

§1077. Medical care for dependents: authorized care in facilities of uniformed services

(a) * * *

(b) The following types of health care may not be provided under section 1076 of this title:

(1) Domiciliary or custodial care.

(2) Prosthetic devices, hearing aids, orthopedic footwear, and spectacles except that-

(A) * * *

(B) artificial limbs, voice prostheses, and artificial eyes may be provided.

* * * * * * *

§1078a. Continued health benefits coverage

(a) * * *

(b) Eligible Persons.-The persons referred to in subsection (a) are the following:

(1) * * *

(2) A person who-

(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title;

* * * * * * *

(c) Notification of Eligibility.-(1) * * *

* * * * * * *

(3) In the case of a [child] dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that-

(A) the member or former member may submit to the Secretary concerned a written notice of the [child's] dependent's change in status (including the [child's] dependent's name, address, and such other information as the Secretary of Defense may require); and

(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the [child] dependent of the [child's] dependent's rights under this section.

(d) Election of Coverage.-In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Secretary of Defense may prescribe) shall be made as follows:

(1) * * *

(2)(A) In the case of a [child] dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of-

(i) the date on which the [child] dependent first ceases to meet the requirements for being considered [an unmarried dependent child under section 1072(2)(D) of this title,] a dependent under subparagraph (D) or (I) of section 1072(2) of this title; or

(ii) the date the [child] dependent receives the notification pursuant to subsection (c).

(B) Notwithstanding subparagraph (A), if the Secretary concerned determines that the [child's] dependent's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the [child] dependent in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A)(i).

* * * * * * *

(g) Period of Continued Coverage.-(1) Continued coverage under this section may not extend beyond-

(A) * * *

(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered [an unmarried dependent child under section 1072(2)(D) of this title] a dependent under subparagraph (D) or (I) of section 1072(2) of this title; and

(2) Notwithstanding paragraph (1)(B), if a [child] dependent of a member becomes eligible for continued coverage under subsection (b)(2) during a period of continued coverage of the member for self and dependents under this section, extended coverage of the [child] dependent under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

* * * * * * *

§1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for spouses [and children], children, and dependents described in section 1072(2)(I) of this title of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except that-

(1) * * *

* * * * * * *

§1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers

(a) * * *

(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care [if that care is provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a).] shall operate to prevent collection by the United States under subsection (a) if that care is provided-

(1) through a facility of the uniformed services;

(2) directly or indirectly by a governmental entity;

(3) to an individual who has no obligation to pay for that care or for whom no other person has a legal obligation to pay; or

(4) by a provider with which the third party payer has no participation agreement.

* * * * * * *

(d) Notwithstanding subsections (a) and (b), and except as provided in subsection (j), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

* * * * * * *

(h) In this section:

(1) The term "third-party payer" means an entity that provides an insurance, medical service, or health plan by contract or agreement, including an automobile liability insurance or no fault insurance carrier. Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection.

* * * * * * *

(j) The Secretary of Defense may enter into an agreement with any health maintenance organization, competitive medical plan, health care prepayment plan, or other similar plan (pursuant to regulations issued by the Secretary) providing for collection under this section from such organization or plan for services provided to a covered beneficiary who is an enrollee in such organization or plan.

§1096. Military-civilian health services partnership program

(a) * * *

* * * * * * *

(d) Payments by Non-Federal Parties.-An agreement entered into under subsection (a) may require a civilian health care provider that is a party to the agreement to make payments to a facility of the uniformed services in connection with resources specified in subsection (b) that are provided by the facility under the agreement. Amounts received by the facility under this subsection shall be credited to the appropriation supporting the maintenance and operation of the facility and shall not be taken into consideration in establishing the operating budget of the facility.

(e) Reimbursement for License Fees.-In the case of an agreement entered into under subsection (a) under which personnel of the uniformed services who are assigned to a facility of the uniformed services will provide health care services at a facility of a civilian health care provider, the Secretary of Defense may reimburse the personnel for any professional license fee that is required by the governmental jurisdiction in which the civilian health care facility is located and is paid by the personnel if the Secretary determines that such reimbursement is necessary to effectively implement the agreement. The amount of such reimbursement may not exceed $500 per person.

§1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) * * *

* * * * * * *

(c) Coordination With Facilities of the Uniformed Services.-The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to covered beneficiaries based on enrollment or declination of enrollment in any program established under, or operating in connection with, any contract under this section. However, the Secretary may, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

(d) Coordination With Other Health Care Programs.-In the case of a covered beneficiary who has enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.

[(c)] (e) Charges for Health Care.-The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section. In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans.

* * * * * * *

CHAPTER 58-BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

Sec.

1141. Involuntary separation defined.

* * * * * * *

1143. Employment assistance[: Department of Defense].

1143a. Encouragement of postseparation public and community service[: Department of Defense].

* * * * * * *

[1152. Assistance to separated members to obtain employment with law enforcement agencies.]

1152. Assistance to separated members to obtain employment as public safety officers.

* * * * * * *

§1141. Involuntary separation defined

A member of the [Army, Navy, Air Force, or Marine Corps] armed forces shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, [or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994] or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994, and-

(1) * * *

* * * * * * *

§1143. Employment assistance[: Department of Defense]

(a) Employment Skills Verification.-The Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard shall provide to members of the armed forces [under the jurisdiction of the Secretary] who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

(b) Employment Assistance Centers.-The Secretary of Defense shall establish permanentemployment assistance centers at appropriate military installations. The Secretary of Transportation shall establish permanent employment assistance centers at appropriate Coast Guard installations.

(c) Information to Civilian Entities.-For the purpose of assisting members covered by subsection (a) and their spouses in locating civilian employment and training opportunities, the Secretary of Defense and the Secretary of Transportation shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

(d) Employment Preference by Nonappropriated Fund Instrumentalities.-The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, or Marine Corps who are involuntarily separated, and the dependents of such members, shall be provided a preference in hiring by nonappropriated fund instrumentalities of the Department. Such preference shall be administered in the same manner as the preference for military spouses provided under section 806(a)(2) of the Military Family Act of 1985, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once. The Secretary of Transportation shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.

§1143a. Encouragement of postseparation public and community service[: Department of Defense]

(a) * * *

* * * * * * *

(h) This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Transportation shall implement the requirements of this section for the Coast Guard.

* * * * * * *

§1145. Health benefits

(a) * * *

* * * * * * *

(e) The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the five-year period beginning on October 1, 1994. The Secretary of Transportation shall implement this section for the Coast Guard.

§1146. Commissary and exchange benefits

The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the nine-year period beginning on October 1, 1990, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the five-year period beginning October 1, 1994.

§1147. Use of military family housing

(a) Transition for Involuntarily Separated Members.-(1) The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the nine-year period beginning on October 1, 1990, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual's household) in

military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the five-year period beginning October 1, 1994, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.

* * * * * * *

§1148. Relocation assistance for personnel overseas

The Secretary of Defense and the Secretary of Transportation shall develop a program specifically to assist members of the armed forces stationed overseas who are preparing for discharge or release from active duty, and the dependents of such members, in readjusting to civilian life. The program shall focus on the special needs and requirements of such members and dependents due to their overseas locations and shall include, to the maximum extent possible, computerized job relocation assistance and job search information.

§1149. Excess leave and permissive temporary duty

Under regulations prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard, the Secretary [of the military department] concerned shall grant a member of the armed forces who is to be involuntarily separated such excess leave (for a period not in excess of 30 days), or such permissive temporary duty (for a period not in excess of 10 days), as the member requires in order to facilitate the member's carrying out necessary relocation activities (such as job search and residence search activities), unless to do so would interfere with military missions.

§1150. Affiliation with Guard and Reserve units: waiver of certain limitations

(a) * * *

* * * * * * *

(c) Coast Guard.-This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Transportation shall prescribe regulations to implement this section for the Coast Guard.

* * * * * * *

[§1152. Assistance to separated members to obtain employment with law enforcement agencies]

§1152. Assistance to separated members to obtain employment as public safety officers

(a) Placement Program.-The Secretary of Defense may establish a program to assist eligible members of the armed forces to obtain employment as [law enforcement officers] public safety officers with State and local law enforcement agencies or fire departments upon their discharge or release from active duty.

(b) Eligible Members.-(1) Except as provided in paragraph (2), a member of the armed forces may apply to participate in the program established under subsection (a) if the member-

(A) * * *

(B) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or fire fighting, or satisfies such other criteria for selection as the Secretary of Defense may prescribe.

* * * * * * *

(d) Grants to Facilitate Employment.-(1) The Secretary of Defense may enter into agreements with State and local law enforcement agencies and fire departments to assist eligible members selected under subsection (c) to obtain suitable employment as [law enforcement officers with these agencies] public safety officers. Under such an agreement, [a law enforcement agency] the agency or department shall agree to employ a participant in the program on a full-time basis for at least five years.

(2) Under an agreement referred to in paragraph (1), the Secretary shall agree to pay to the law enforcement agency or fire department involved an amount based upon the basic salary paid by the [law

enforcement agency] agency or department to the participant as a [law enforcement officer] public safety officer. The rate of payment by the Secretary shall be as follows:

(A) * * *

* * * * * * *

(4) If a participant who is placed under this program leaves the employment of the law enforcement agency or fire department before the end of the five years of required employment service, the agency or department shall reimburse the Secretary in an amount that bears the same ratio to the total amount already paid under the agreement as the unserved portion bears to the five years of required service.

(5) The Secretary may not make a grant under this subsection to a law enforcement agency or fire department if the Secretary determines that the [law enforcement agency] agency or department terminated the employment of another employee in order to fill the vacancy so created with a participant in this program.

(e) Agreements With States.-(1) In addition to the agreements referred to in subsection (d)(1), the Secretary of Defense may enter into an agreement directly with a State to allow the State to arrange the placement of participants in the program with State and local law enforcement agencies and fire departments. Paragraphs (2) through (5) of subsection (d) shall apply with respect to any placement made through such an agreement.

* * * * * * *

(f) Definitions.-In this section:

(1) * * *

(2) The term "public safety officer" means a law enforcement officer or a firefighter.

[(2)] (3) The term "law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including police, corrections, probation, parole, and judicial officers.

(4) The term "firefighter" includes a public employee member of a rescue squad or ambulance crew.

* * * * * * *

CHAPTER 59-SEPARATION

Sec.

1161. Commissioned officers: limitations on dismissal.

* * * * * * *

1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling.

* * * * * * *

§1174. Separation pay upon involuntary discharge or release from active duty

(a) Regular Officers.-(1) A regular officer who is discharged under chapter 36 of this title (except under section 630(1)(A) or 643 of such chapter), or under section 580, 1177, or 6383 of this title and who has completed six or more, but less than twenty, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1).

* * * * * * *

§1174a. Special separation benefits programs

(a) Requirement for Programs.-The Secretary [of each military department] concerned shall carry out a special separation benefits program under this section. An eligible member of the armed forces may request separation under the program. The request shall be subject to the approval of the Secretary.

* * * * * * *

(d) Program Applicability.-The Secretary [of a military department] concerned may provide for the program under this section to apply to any of the following members:

(1) * * *

* * * * * * *

(e) Applicability Subject to Needs of the Service.-(1) * * *

* * * * * * *

(3) A member of the armed forces offered a voluntary separation incentive under section 1175 of this title shall also be offered the opportunity to request separation under a program established pursuant to this section. If the Secretary [of the military department] concerned approves a request for separation under either such section, the member shall be separated under the authority of the section selected by such member.

* * * * * * *

(h) Termination of Program.-(1) Except as provided in paragraph (2), the Secretary [of a military department] concerned may not conduct a program pursuant to this section after September 30, 1999.

* * * * * * *

§1175. Voluntary separation incentive

(a) Consistent with this section and the availability of appropriations for this purpose, the Secretary of Defense and the Secretary of Transportation may provide a financial incentive to members of the armed forces described in subsection (b) for voluntary appointment, enlistment, or transfer to a reserve component, requested and approved under subsection (c), for the period of time the member serves in a reserve component.

(b) The Secretary of Defense and the Secretary of Transportation may provide the incentive to a member of the armed forces if the member-

(1) * * *

* * * * * * *

(c) A member of the armed forces offered a voluntary separation incentive under this section shall be offered the opportunity to request separation under a program established pursuant to section 1174a of this title. If the Secretary [of the military department] concerned approves a request for separation under either such section, the member shall be separated under the authority of the section selected by such member.

* * * * * * *

(g) Subject to subsection (h), payments under this provision shall be paid from appropriations available to the Department of Defense and the Department of Transportation for the Coast Guard.

(h)(1) * * *

* * * * * * *

(3) All voluntary separation incentive payments made after December 31, 1992, under this section except for payments to members of the Coast Guard shall be paid out of the Fund. To the extent provided in appropriation Acts, the assets of the Fund shall be available to pay voluntary separation incentives under this section.

(i) The Secretary of Defense and the Secretary of Transportation may issue such regulations as may be necessary to carry out this section.

* * * * * * *

§1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling

(a) Required Separation.-A member of the armed forces who is classified as permanently nonworldwide assignable due to a medical condition shall (except as provided in subsection (c)) be separated. Such separation shall be made on a date determined by the Secretary concerned, which (except as provided in subsection (b)(2)) shall be as soon as practicable after the date on which the determination is made that the member should be so classified and not later than the last day of the twelfth month beginning after that date.

(b) Form of Separation.-(1) If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged.

(2) In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provison of law, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

(c) Exceptions.-The Secretary concerned may waive subsection (a) with respect to an individual member of the armed forces under the jurisdiction of that Secretary if the Secretary determines that there are circumstances that warrant the retention of that member. Such circumstances may include-

(1) consideration that the medical condition making the member permanently nonworldwide assignable was incurred in combat or otherwise as the result of an action of the member for which the member received a decoration or other recognition for personal bravery;

(2) consideration that the member has a specific proficiency or skill that is vital to the national security; and

(3) any other circumstance that the Secretary considers to be for the good of the service.

(d) Counseling About Available Medical Care.-A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

(e) Separation To Be Considered Involuntary.-A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.

* * * * * * *

CHAPTER 67-RETIRED PAY FOR NON-REGULAR SERVICE

* * * * * * *

§1331. Age and service requirements

(a) * * *

* * * * * * *

(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the entitlement of that person, upon application, to retired pay under this section shall be determined, in the case of the requirement specified in subsection (a)(3), by substituting "the last six years" for "the last eight years".

§1331a. Temporary special retirement qualification authority

(a) * * *

* * * * * * *

(c) Applicability Subject to Needs of the Service.-(1) * * *

* * * * * * *

(3) Notwithstanding the provisions of section 4415(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and

qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.

* * * * * * *

CHAPTER 71-COMPUTATION OF RETIRED PAY

* * * * * * *

§1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

(a) * * *

* * * * * * *

(f) Prevention of Pay Inversions.-Notwithstanding any other provision of law, the monthly retired pay of a member or a former member of an armed force who initially became entitled to that pay on or after January 1, 1971, may not be less than the monthly retired pay to which he would be entitled if he had become entitled to retired pay at an earlier date based on the grade in which the member is retired, adjusted to reflect any applicable increases in such pay under this section. In computing the amount of retired pay to which such a member or former member would have been entitled on that earlier date, the computation shall be based on his grade, length of service, and the rate of basic pay applicable to him at that time, except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired. [However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired.] This subsection does not authorize any increase in the monthly retired pay to which a member was entitled for any period before October 7, 1975.

* * * * * * *

§1405. Years of service

(a) * * *

* * * * * * *

(c) Exclusion of Time Required To Be Made Up.-Time required to be made up by an enlisted member of the Army or Air Force under section 972 of this title may not be counted in determining years of service under subsection (a).

* * * * * * *

CHAPTER 73-ANNUITIES BASED ON RETIRED OR RETAINER PAY

* * * * * * *

SUBCHAPTER II-SURVIVOR BENEFIT PLAN

* * * * * * *

§1448. Application of Plan

(a) * * *

(b)(1)(A) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person. In the case of a person providing a reserve-component annuity, such an election shall include a designation under subsection (e).

(B) An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned

shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

(C) A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

(D) The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

(E) Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a).

* * * * * * *

§1452. Reduction in retired pay

(a) * * *

[(b) The retired pay of a person to whom section 1448 of this title applies who has a dependent child but does not have an eligible spouse or former spouse, or who has a spouse or former spouse but has elected to provide an annuity for dependent children only, shall, as long as he has an eligible dependent child, be reduced by an amount prescribed under regulations of the Secretary of Defense.]

(b) Child-Only Annuities.-

(1) Required reduction in retired pay.-The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

(2) No reduction when no child.-There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

(3) Special rule for certain rcsbp participants.-In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

(4) Child-only coverage defined.-For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who-

(A) does not have an eligible spouse or former spouse; or

(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.

* * * * * * *

CHAPTER 75-DEATH BENEFITS

* * * * * * *

§1481. Recovery, care, and disposition of remains: decedents covered

(a) The Secretary concerned may provide for the recovery, care, and disposition of [the remains of-] the remains of the following:

(1) [any] Any Regular of an armed force, or member of an armed force without component, under his jurisdiction who dies while on active duty[;].

(2) [a] A member of a reserve component of an armed force who dies while-

(A) on active duty;

(B) performing inactive-duty training;

(C) performing authorized travel directly to or from active duty or inactive-duty training; or

(D) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training[;].

(4) [any] Any member of, or applicant for membership in, a reserve officers' training corps who dies while (A) attending a training camp, (B) on an authorized practice cruise, (C) performing authorized travel to or from such a camp or cruise, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel[;].

(5) [any] Any accepted applicant for enlistment in an armed force under his jurisdiction[;].

(6) [any] Any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a United States hospital, and who continues to be such a patient until the date of his death[;].

(7) [any] Any retired member of an armed force under his jurisdiction who becomes a patient in a United States hospital while he is on active duty for a period of more than 30 days, and who continues to be such a patient until the date of his death[; and].

(8) [any] Any military prisoner who dies while in his custody.

(9) To the extent authorized under section 1482(g) of this title, any retired member of an armed force or a dependent of such a member who dies while outside the United States.

* * * * * * *

(c) In this section, the term "dependent" has the meaning given such term in section 1072(2) of this title.

§1482. Expenses incident to death

(a) * * *

* * * * * * *

(g) The payment of expenses incident to the recovery, care, and disposition of a decedent covered by section 1481(a)(9) of this title is limited to the payment of expenses described in paragraphs (1) through (5) of subsection (a) and air transportation of the remains from a location outside the United States to a point of entry in the United States. Such air transportation may be provided without reimbursement on a space-available basis in military or military-chartered aircraft. The Secretary concerned shall pay all other expenses authorized to be paid under this subsection only on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available, at the time of reimbursement, for the payment of such expenses.

* * * * * * *

CHAPTER 81-CIVILIAN EMPLOYEES

Sec.

1581. Foreign National Employees Separation Pay Account.

* * * * * * *

1598a. Assistance to terminated employees to obtain employment as public safety officers.

* * * * * * *

§1598a. Assistance to terminated employees to obtain employment as public safety officers

(a) Placement Program.-The Secretary of Defense may establish a program to assist eligible civilian employees of the Department of Defense after the termination of their employment to obtain employment as public safety officers with State and local law enforcement agencies or fire departments.

(b) Eligible Employees.-(1) A civilian employee of the Department of Defense shall be eligible for selection by the Secretary of Defense to participate in the placement program authorized by subsection (a) if the employee-

(A) during the five-year period beginning October 1, 1994, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense;

(B) has occupational training or experience related to law enforcement or fire fighting or satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(2) The Secretary of Defense may accept an application from a civilian employee referred to in paragraph (1) who was terminated during the period beginning on October 1, 1990, and ending on October 1, 1994, if the employee otherwise satisfies the eligibility criteria specified in that paragraph.

(c) Selection of Participants.-(1) The Secretary of Defense shall select civilian employees to participate in the placement program on the basis of applications submitted to the Secretary not later than one year after the date the employees receive a notice of termination. An application shall be in such form and contain such information as the Secretary may require.

(2) The Secretary may not select a civilian employee to participate in the program unless the Secretary has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under the program with respect to that participant.

(d) Placement of Participants as Public Safety Officers.-Subsections (d), (e), and (f) of section 1152 of this title shall apply with respect to the placement program authorized by this section.

* * * * * * *

PART III-TRAINING AND EDUCATION

* * * * * * *

CHAPTER 108-DEPARTMENT OF DEFENSE SCHOOLS

* * * * * * *

§2164. Department of Defense domestic dependent elementary and secondary schools

(a) Authority of Secretary.-If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces residing on or near a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may provide for the elementary or secondary education of such dependents.

(b) Factors To Be Considered.-Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

(1) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

(2) The extent to which the local educational agency is able to provide an appropriate educational program for such dependents. For purposes of this section, an appropriate educational program, as determined by the Secretary, is a program comparable to a program of free public education provided for children-

(A) in similar communities in the State, in the case of a military installation located in a State;

(B) in similar communities in adjacent States, in the case of a military installation adjacent to or located in more than one State; and

(C) in the District of Columbia, in the case of a military installation located in a territory, commonwealth, or possession, except that an appropriate educational program under this subparagraph is also a program of education conducted in the English language.

(c) Education for Dependents of Federal Employees.-(1) An individual who is a dependent of a Federal employee residing at any such military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a).

(2)(A) Except as provided in subparagraph (B), an individual who is a dependent of a Federal employee, who is enrolled in an educational program provided by the Secretary pursuant to subsection (a), and who is not living on the military installation may be enrolled in the program for not more than five consecutive school years.

(B) An individual referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines, after consideration of the individual's educational well-being, that good cause exists to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

(C) For purposes of this paragraph, the five-year period described in subparagraph (A) begins on the date the individual enrolls in the program pursuant to this section or pursuant to any provision of law enacted before the date of the enactment of this section that provided eligibility to the individual for enrollment in a similar program.

(3) An individual enrolled in a program under this subsection may participate in the program for the remainder of the school year notwithstanding a change in status of the Federal employee with respect to whom the individual is a dependent, except that any such individual may be removed from enrollment in the program at any time for good cause, as determined by the Secretary.

(d) Establishment of School Boards.-(1) The Secretary of Defense shall provide for the establishment of a school board for each Department of Defense elementary or secondary school established for a military installation under this section.

(2) Each school board established for a school under paragraph (1) shall be elected by the parents of individuals attending the school. Meetings conducted by the school board shall be open to the public.

(3)(A) A school board elected for a school under this subsection may develop fiscal, personnel, and educational policies and procedures for the school, including fiscal, personnel, and educational program management, except that the Secretary may issue any directive to the school board and school administrative officials the Secretary considers necessary for the effective operation of the school or the entire school system.

(B) Any directive referred to in subparagraph (A) shall, to the maximum extent practicable, be issued only after consultation with appropriate school boards elected under this subsection. The Secretary shall establish a process by which a school board or school administrative officials may formally appeal such directives directly to the Secretary. Consideration of such appeals may not be delegated below the Secretary of Defense.

(e) Staff.-(1) The Secretary of Defense, in coordination with the school board established for a school under subsection (d), may enter into such arrangements as may be necessary to provide educational programs under this section.

(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees-

(A) establish such positions for civilian employees in schools established under this section;

(B) appoint individuals to such positions; and

(C) fix the compensation of such individuals for service in such positions.

(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed under paragraph (2), the Secretary, in coordination with the school board established for a school under subsection (d), shall consider-

(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

(ii) the compensation of comparable employees in the local educational agency that provides public education to students who live adjacent to the military installation; or

(iii) the average compensation for similar positions in not more than three other local educational agencies, as determined by the Secretary and the appropriate local school boards in the State in which the military installation is located.

(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions under this section or any other provision of law enacted before the date of the enactment of this section that provided for similar schools, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, in coordination with the local school boards and without regard to the provisions of title 5, may arrange for the tenure, leave, hours of work, and other incidents of employment on a similar basis as is provided for comparable positions in the public schools of the District of Columbia.

(f) Reimbursement.-When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of another Federal agency, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary of Defense for those services at rates routinely prescribed by the Secretary of Defense for those services. Any payments received by the Secretary of Defense under this section shall be credited to the account designated by the Secretary for the operation of educational programs under this section.

* * * * * * *

PART IV-SERVICE, SUPPLY, AND PROCUREMENT

* * * * * * *

CHAPTER 131-PLANNING AND COORDINATION

Sec.

* * * * * * *

[§2202. Obligation of funds: limitation

[(a) Notwithstanding any other provision of law, an officer or agency of the Department of Defense may obligate funds for procuring, producing, warehousing, or distributing supplies, or for related functions of supply management, only under regulations prescribed by the Secretary of Defense. The purpose of this section is to achieve the efficient, economical, and practical operation of an integrated supply system to meet the needs of the military departments without duplicate or overlapping operations or functions.

[(b) Except as otherwise provided by law, the availability for obligation of funds appropriated for any program, project, or activity of the Department of Defense expires at the end of the three-year period beginning on the date that such funds initially become available for obligation unless before the end of such period the Secretary of Defense enters into a contract for such program, project, or activity.]

§2202. Regulations on procurement, production, warehousing, and supply distribution functions

The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.

* * * * * * *

§2219. Retention of morale, welfare, and recreation funds by military installations: limitation

Amounts may not be retained in a nonappropriated morale, welfare, and recreation account of a military installation of a military department in excess of the amount necessary to meet working capital requirements

of that installation. Amounts in excess of that amount shall be transferred to a single, department-wide nonappropriated morale, welfare, and recreation account of the military department.

* * * * * * *

CHAPTER 137-PROCUREMENT GENERALLY

Sec.

* * * * * * *

[§2301. Congressional defense procurement policy

[(a) The Congress finds that in order to ensure national defense preparedness, conserve fiscal resources, and enhance defense production capability, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner. It is therefore the policy of Congress that-

[(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

[(2) services and property (including weapon systems and associated items) for the Department of Defense be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States;

[(3) contracts, when appropriate, provide incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology;

[(4) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if feasible and practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

[(5) the head of an agency use advance procurement planning and market research and prepare contract specifications in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired;

[(6) the head of an agency encourage the development and maintenance of a procurement career management program to ensure a professional procurement work force; and

[(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.

[(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall in accordance with the requirements of this chapter-

[(1) promote full and open competition;

[(2) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

[(3) promote responsiveness of the procurement system to agency needs by simplifying and streamlining procurement processes;

[(4) promote the attainment and maintenance of essential capability in the defense industrial base and the capability of the United States for industrial mobilization;

[(5) provide incentives to encourage contractors to take actions and make recommendations that would reduce the costs to the United States relating to the purchase or use of property or services to be acquired under contracts;

[(6) promote the use of commercial products whenever practicable; and

[(7) require descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

[(c) Further, it is the policy of Congress that a fair proportion of the purchases and contracts entered into under this chapter be placed with small business concerns.

[(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or other severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.]

§2301. Congressional defense procurement policy

(a) The Congress finds that in order to ensure national defense preparedness; conserve fiscal resources; enhance science and technology, research and development, and production capability; provide for continued development and preservation of an efficient and responsive defense industrial base; and ensure the financial and ethical integrity of defense procurement programs, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner consistent with achieving an optimum balance among efficient processes, full and open access to the procurement system, and sound implementation of socioeconomic policies. It is therefore the policy of Congress that-

(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

(2) to the maximum extent practicable, the Department of Defense shall acquire commercial items to meet its needs and shall require prime contractors and subcontractors, at all levels, which furnish other than commercial items, to incorporate to the maximum extent practicable commercial items as components of items being supplied to the Department;

(3) when commercial items and components are not available, practicable, or cost effective, the Department of Defense shall acquire, and shall require prime contractors and subcontractors to incorporate, nondevelopmental items and components to the maximum extent practicable;

(4) property and services for the Department of Defense may be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States and will provide for appropriate allocation of risk between the Government and the contractor with due regard to the nature of the property or services to be acquired;

(5) contracts, when appropriate, shall provide incentives to contractors to improve productivity through investment in capital facilities, equipment, flexible manufacturing processes, and advanced and dual-use technology;

(6) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

(7) procurement protests and disputes shall be fairly and expeditiously resolved through uniform interpretation of relevant laws and regulations;

(8) the head of an agency shall use advance procurement planning and market research and develop contract requirements in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired; but may restrict competitions to suppliers of commercial items to foster accomplishment of the above objective; and

(9) the head of an agency shall develop and maintain an acquisition career management program to ensure a professional acquisition work force in accordance with the requirements of chapter 87 of this title.

(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall, in accordance with the requirements of this title-

(1) be issued in accordance with and conform to the requirements of sections 22 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b and 421);

(2) promote and implement the Congressional policies in subsection (a) of this section and section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401);

(3) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

(4) promote responsiveness of the procurement system to agency needs by-

(A) simplifying and streamlining procurement processes; and

(B) providing incentives to encourage contractors to take actions and make recommendations that would reduce the costs of property or services to be acquired;

(5) facilitate the acquisition of commercial items and commercial components at or based on commercial market prices, without requiring contractors to change their business practices; and

(6) promote the acquisition and use of commercial items, commercial components, and nondevelopmental items by requiring descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

(c) Further, it is the policy of Congress that 20 percent of the purchases and contracts entered into under this chapter should be placed with small business concerns and that 5 percent of the purchases and contracts entered into under this chapter should be placed with concerns that are small disadvantaged businesses.

(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.

(e)(1) It is the policy of Congress that the Department of Defense should not be required by legislation to award a new contract or grant to a specific non-Federal Government entity (a practice commonly known as earmarking) for basic research, exploratory development, advanced technology development, and manufacturing technology activities. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through competitive procedures, and that any such program, project, or technology not be so narrowly described in legislation that only one institution qualifies for competition.

(2) A provision of law may not be construed as requiring the Department of Defense to award a new contract or grant to a specific non-Federal Government entity unless that provision of law-

(A) specifically refers to this subsection;

(B) specifically identifies the particular non-Federal Government entity to be awarded the contract or grant; and

(C) sets forth the national defense purpose to be fulfilled by requiring the department to award a new contract or grant to the specified non-Federal Government entity.

(3) For purposes of this subsection-

(A) a contract is a new contract unless the work provided for in the contract is a continuation of the work provided for in a preceding contract; and

(B) a grant is a new grant unless the work funded by the grant is substantially a continuation of the work for which funding is provided in a preceding grant.

* * * * * * *

[§2329. Production special tooling and production special test equipment: contract terms and conditions

[(a) Regulations.-The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition and Technology) shall prescribe regulations providing for payment to contractors for production special tooling and production special test equipment acquired or fabricated in the performance of contracts described in subsection (b). Such regulations shall establish a uniform policy for the Department of Defense.

[(b) Contracts To Which Regulations Apply.-(1) Except as provided in paragraph (2), regulations under this section shall apply in the case of any contract for production of an item that is awarded by the Secretary of a military department and under which the contractor, in order to perform the contract, is required to acquire or fabricate items of production special tooling or items of production special test equipment.

[(2) Such regulation shall not apply to a contract in which the cost to the contractor of the special production tooling and special production test equipment used in the performance of the contract is less than $1,000,000.

[(c) Requirements.-Regulations under subsection (a) shall include the following:

[(1) A requirement that the terms and conditions for the acquisition or fabrication of production special test equipment and production special tooling by a contractor under a contract decribed in

subsection (b) (including specification of the maximum amount for which the contractor may be paid for such tooling and equipment)-

[(A) shall be specified in the contract, and

[(B) shall be determined by the Secretary concerned and the contractor through negotiations.

[(2) A requirement that if the Secretary concerned, at the time a contract described in subsection (b) is entered into, reasonably anticipates that the United States will later contract with the same contractor for the same or similar items for which the contractor would be able to use the special production tooling or special production test equipment that the contractor was required to acquire or fabricate for performance of the contract, and if that tooling and equipment will not be used by the contractor solely for final production acceptance testing under the contract, the contractor-

[(A) shall be paid for such tooling and equipment in accordance with the terms and conditions of the contract, but in a total amount not less than a percentage (determined under paragraph (3)) of the maximum amount for such payment agreed to under paragraph (1); and

[(B) shall be paid for the balance of such amount subject to the availability of appropriations and in accordance with an amortization schedule determined by the Secretary concerned and the contractor through negotiations.

[(3) The percentage to be used under paragraph (2)(A) shall be specified in the contract based upon negotiations between the Secretary concerned and the contractor and may not be less than 50 percent, except that a lower percentage may be specified in the case of any contract if the Secretary concerned, before the contract is entered into, approves the use of that lower percentage with respect to that contract. Any such approval by the Secretary concerned shall be made under criteria established by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology.

[(4) A requirement that a contract described in subsection (b) include provisions, determined on the basis of negotiations between the Secretary concerned and the contractor, which ensure that if the contract, or the program with respect to which such contract is awarded, is terminated before the maximum amount specified under paragraph (1) has been paid to the contractor, and the termination is not for a reason that reflects a failure of the contractor to perform the contract, the Secretary concerned, subject to the availability of appropriations, shall pay the contractor the balance of such maximum amount in accordance with the terms and conditions of the contract.

[(5) A requirement that, except as provided in paragraph (2), a contractor under a contract described in subsection (b) shall be paid for the special production tooling or special production test equipment that the contractor was required to acquire or fabricate for performance under the contract in the maximum amount provided in the contract and in accordance with the terms and conditions of the contract.

[(d) Treatment of Certain Costs as Direct Costs.-Costs incurred by a contractor under a contract described in subsection (b) for the acquisition and fabrication of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered to be direct costs incurred by the contractor.]

* * * * * * *

§2332. Subsistence items: limitation on use of specifications and restrictions in procurement of

(a) Limitation.-Except as provided in subsection (b), the Secretary of Defense may not use specifications or restrictions in the procurement of subsistence items for use at military installations.

(b) Exception.-The Secretary of Defense may use specifications and restrictions in the procurement of field rations and shipboard rations (including tray packs and meals ready-to-eat), except that any such specifications and restrictions shall be developed consistent with the preference of the Department of Defense for commercial items.

* * * * * * *

CHAPTER 139-RESEARCH AND DEVELOPMENT

Sec.

2351. Availability of appropriations.

2352. Contracts: notice to Congress required for contracts performed over period exceeding 10 years.

* * * * * * *

[2355. Contracts: vouchering procedures.]

* * * * * * *

[2369. Product evaluation activity.]

* * * * * * *

[§2355. Contracts: vouchering procedures

[Notwithstanding any law relating to the expenditure of and accounting for public funds, the Secretary of each military department may, with the approval of the Secretary of Defense and the Comptroller General, prescribe by regulation the extent to which vouchers for funds spent under a contract of his department for research or development, or both, must be itemized, substantiated, or certified before payment.]

* * * * * * *

§2366. Major systems and munitions programs: survivability and lethality testing required before full-scale production

(a) * * *

* * * * * * *

(c) Waiver Authority.-(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data, if the Secretary certifies to Congress that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.

(3) The Secretary shall include with any [such certification] certification under paragraph (1) or (2) a report explaining how the Secretary plans to evaluate the survivability or the lethality of the system or program and assessing possible alternatives to realistic survivability testing of the system or program.

[(2)] (4) In time of war or mobilization, the President may suspend the operation of any provision of this section.

* * * * * * *

[§2369. Product evaluation activity

[(a) Establishment.-The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, shall establish a program for the supervision and coordination of product evaluation activities within the Department of Defense.

[(b) Conduct of Product Evaluation.-(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition and Technology, establish and conduct appropriate product evaluation activities.

[(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

[(c) Cost Sharing.-As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation. For product development proposed by a small business concern (within the meaning of section 3 of the Small

Business Act (15 U.S.C. 632)), the Secretary of Defense may pay up to 85 percent of the cost of product evaluation if the small business concern agrees to a not-for-profit contract.]

* * * * * * *

CHAPTER 141-MISCELLANEOUS PROCUREMENT PROVISIONS

* * * * * * *

§2383. Procurement of critical aircraft and ship spare parts: quality control

(a) In procuring any spare or repair part that is critical to the operation of an aircraft or ship, the Secretary of Defense shall require the contractor supplying such part to provide a part that meets all appropriate qualification and contractural quality requirements as may be specified and made available to prospective offerors. [In establishing the appropriate qualification requirements, the Secretary of Defense shall utilize those requirements, if available, which were used to qualify the original production part, unless the Secretary of Defense determines in writing that any or all such requirements are unnecessary.] In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part, unless the Secretary determines in writing-

(A) that there are other requirements sufficiently similar to those requirements that should be used instead; or

(B) that any or all such requirements are unnecessary.

* * * * * * *

§2386. Copyrights, patents, designs, etc.; acquisition

Funds appropriated for a military department available for making or procuring supplies may be used to acquire any of the following if the acquisition relates to supplies or processes produced or used by or for, or useful to, that department:

(1) * * *

* * * * * * *

[(3) Designs, processes, and manufacturing data.

[(4) Releases, before suit is brought, for past infringement of patents or copyrights.]

(3) Technical data and computer software.

(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.

* * * * * * *

§2391. Military base reuse studies and community planning assistance

(a) * * *

(b)(1) * * *

* * * * * * *

(5) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in planning community adjustments and economic diversification even though the State or local government is not currently eligible for assistance under paragraph (1) if the Secretary determines that a substantial portion of the economic activity or population of the geographic area to be subject to the advance planning is dependent on defense expenditures.

[(5)] (6) Funds provided to State and local governments and regional organizations under this section may be used as part or all of any required non-Federal contribution to a Federal grant-in-aid program for the purposes stated in paragraph (1).

[(6)] (7) To the extent practicable, the Secretary of Defense shall inform a State or local government applying for assistance under this subsection of the approval or rejection by the Secretary of the application for such assistance as follows:

(A) Before the end of the 7-day period beginning on the date on which the Secretary receives the application, in the case of an application for a planning grant.

(B) Before the end of the 30-day period beginning on such date, in the case of an application for assistance to carry out a community adjustments and economic diversifications program.

[(7)] (8)(A) In attempting to complete consideration of applications within the time period specified in paragraph [(6)] (7), the Secretary of Defense shall give priority to those applications requesting assistance for a community described in subsection (f)(1).

(B) If an application under paragraph [(6)] (7) is rejected by the Secretary, the Secretary shall promptly inform the State or local government of the reasons for the rejection of the application.

(d) Definitions.-In this section:

(1) * * *

* * * * * * *

(3) The terms "community adjustment" and "economic diversification" include the development of feasibility studies and business plans for market diversification by businesses and labor organizations located in a community adversely affected by an action described in clause (A), (B), (C), or (E) of subsection (b)(1).

* * * * * * *

§2399. Operational test and evaluation of defense acquisition programs

(a) * * *

(b) Operational Test and Evaluation.-(1) * * *

* * * * * * *

(5) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply operational test and evaluation procedures other than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary transmits to Congress, before the Milestone II decision is made with respect to that program-

(A) a certification that such testing would be unreasonably expensive and impracticable; and

(B) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system meets initial operational capability requirements.

[(5)] (6) In this subsection, the term "major defense acquisition program" has the meaning given that term in section [138(a)(2)(B)] 139(a)(2)(B) of this title.

(c) Determination of Quantity of Articles Required for Operational Testing.-The quantity of articles of a new system that are to be procured for operational testing shall be determined by-

(1) the Director of Operational Test and Evaluation of the Department of Defense, in the case of a new system that is a major defense acquisition program (as defined in section [138(a)(2)(B)] 139(a)(2)(B) of this title); or

* * * * * * *

(h) Definitions.-In this section:

(1) The term "operational test and evaluation" has the meaning given that term in section [138(a)(2)(A)] 139(a)(2)(A) of this title. For purposes of subsection (a), that term does not include an operational assessment based exclusively on-

(A) * * *

* * * * * * *

§2400. Low-rate initial production of new systems

(a) Determination of Quantities To Be Procured for Low-Rate Initial Production.-(1) * * *

(2) In [paragraph (1)] this section, the term "milestone II decision" means the decision to approve the [full-scale engineering development] engineering and manufacturing development of a major system by the official of the Department of Defense designated to have the authority to make that decision.

* * * * * * *

(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.

[(4)] (5) The Secretary of Defense shall include a statement of the quantity determined under paragraph (1) in the first SAR submitted with respect to the program concerned after that quantity is determined. If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity. For purposes of the preceding sentence, the term "SAR" means a Selected Acquisition Report submitted under section 2432 of this title.

* * * * * * *

§2401a. Lease of vessels, aircraft, and vehicles

The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.

* * * * * * *

§2403. Major weapon systems: contractor guarantees

(a) * * *

* * * * * * *

(e)[(1)] Before making a waiver under subsection (d) with respect to a weapon system that is a major defense acquisition program for the purpose of section 2432 of this title, the Secretary of Defense shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of his intention to waive any or all of the requirements of subsection (b) with respect to that system and shall include in the notice an explanation of the reasons for the waiver.

[(2) Not later than February 1 of each year, the Secretary of Defense shall submit to the committees specified in paragraph (1) a report identifying each waiver made under subsection (d) during the preceding calendar year for a weapon system that is not a major defense acquisition program for the purpose of section 2432 of this title and shall include in the report an explanation of the reasons for the waivers.]

* * * * * * *

(h)(1) The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this section.

(2) The regulations shall include the following:

(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

(B) Procedures for administering contractor guarantees.

(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.

[(2)] (3) This section does not apply to the Coast Guard or to the National Aeronautics and Space Administration.

* * * * * * *

§2410l. Contracts for advisory and assistance services: cost comparison studies

(a) Requirement.-Before the Secretary of Defense enters into a contract for the performance of advisory and assistance services, the Secretary of Defense shall conduct a comparison study of the cost of performing the services by Department of Defense personnel and the cost of performing the services by contractor personnel.

(b) Waiver.-The Secretary of Defense may, pursuant to guidelines established by the Secretary, waive the requirement under subsection (a) to perform a cost comparison study based on factors that are not related to cost.

* * * * * * *

CHAPTER 144-MAJOR DEFENSE ACQUISITION PROGRAMS

Sec.

2430. Major defense acquisition program defined.

2431. Weapons development and procurement schedules.

* * * * * * *

[2435. Enhanced program stability.]

2435. Baseline description.

[2438. Major programs: competitive prototyping.

[2439. Major programs: competitive alternative sources.]

* * * * * * *

§2431. Weapons development and procurement schedules

(a) The Secretary of Defense shall submit to Congress each calendar year, [at the same time] not later than 45 days after the President submits the budget to Congress under section 1105 of title 31, [a written report] budget justification documents regarding development and procurement schedules for each weapon system for which fund authorization is required by section 114(a) of this title, and for which any funds for procurement are requested in that budget. The [report] documents shall include data on operational testing and evaluation for each weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation, or long lead-time items, or both). A weapon system shall also be included in the annual [report] documents required under this subsection in each year thereafter until procurement of that system has been completed or terminated, or the Secretary of Defense certifies, in writing, that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) Any report required to be submitted under subsection (a) shall include detailed and summarized information with respect to each weapon system covered and shall specifically [include-] include each of the following:

(1) [the] The development schedule, including estimated annual costs until development is completed[;].

(2) [the] The planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed[;].

(3) [to] To the extent required by the second sentence of subsection (a), the result of all operational testing and evaluation up to the time of the submission of the report, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted[; and].

[(4) the most efficient production rate and the most efficient acquisition rate consistent with the program priority established for such weapon system by the Secretary concerned.]

(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

(B) In this paragraph:

(i) The term "most efficient production rate" means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

(ii) The term "minimum sustaining rate" means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

* * * * * * *

§2432. Selected Acquisition Reports

(a) In this section:

(1) The term "program acquisition unit cost", with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

(2) The term "procurement unit cost", with respect to a major defense acquisition program, means the amount equal to (A) the total of all funds programmed to be available for obligation for procurement for the program [for a fiscal year, reduced by the amount of funds programmed to be available for obligation for such fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year], divided by (B) the number of fully-configured end items to be procured [with such funds during such fiscal year]. [If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.]

(3) The term "major contract", with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000 and that is not a firm, fixed price contract.

(4) The term "full life-cycle cost", with respect to a major defense acquisition program, [has the meaning given the term "cost of the program" in section 2434(b)(2) of this title.] means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.

(b)(1) * * *

* * * * * * *

(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if-

(i) the program has not entered [full scale development or] engineering and manufacturing development;

* * * * * * *

(c)(1) * * *

(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such

Committees need to perform their oversight functions. [The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes.] Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.

(3) In addition to the material required by paragraphs (1) and (2), each Selected Acquisition Report for the first quarter of a fiscal year shall include the following:

(A) A full life-cycle cost analysis for each major defense acquisition program included in the report that is in the [full-scale engineering] engineering and manufacturing development stage or has completed that stage. The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.

(B) If the system that is included in that major defense acquisition program has an antecedent system, a full life-cycle cost analysis for that system.

[(C) Production information for each major defense acquisition program included in the report that is produced at a rate of six units or more per year, including (with respect to each such program) the following:

[(i) Specification of the baseline production rate, defined as the rate or rates to be achieved at full rate production as assumed in the decision to proceed with production (commonly referred to as the "Milestone III" decision).

[(ii) Specification, for each of the two budget years of production under the program, of the minimum sustaining production rate, defined as the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

[(iii) Specification, for each of the two budget years of production under the program, of the maximum production rate, defined as the production rate for each budget year that is attainable with the facilities and tooling programmed to be available for procurement under the program or otherwise to be provided with Government funds.

[(iv) Specification, for each of the two budget years of production, of the current production rate, defined as the production rate for each budget year for which the report is submitted, based on the budget submitted to Congress pursuant to section 1105 of title 31.

[(v) Estimation of any cost variance-

[(I) between the budget year procurement unit costs at the production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the minimum sustaining production rate specified pursuant to clause (ii); and

[(II) between the total remaining procurement cost at the production rate specified pursuant to clause (iv) and the total remaining procurement cost at the minimum sustaining production rate specified pursuant to clause (ii).

[(vi) Estimation of any cost variance-

[(I) between the budget year procurement unit costs at the current production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the maximum production rate specified pursuant to clause (iii); and

[(II) between the total remaining procurement cost at the current production rate specified pursuant to clause (iv) and the total remaining procurement cost at the maximum production rate specified pursuant to clause (iii).

[(vii) Estimation of quantity variance-

[(I) between the budget year quantities assumed in the minimum sustaining production rate specified pursuant to clause (ii) and the current production rate specified pursuant to clause (iv); and

[(II) between the budget year quantities assumed in the maximum production rate specified pursuant to clause (iii) and the current production rate specified pursuant to clause (iv).]

* * * * * * *

[(5) The Secretary of Defense shall ensure that paragraph (4) of subsection (a) is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.]

* * * * * * *

(f) Each comprehensive annual Selected Acquisition Report shall be submitted within [60] 45 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 45 days after the end of the fiscal-year quarter. [A preliminary report shall be submitted for each annual Selected Acquisition Report within 30 days of the date on which the President submits the Budget to Congress.]

* * * * * * *

(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to [full-scale engineering] engineering and manufacturing development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to [full-scale engineering] engineering and manufacturing development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

* * * * * * *

§2433. Unit cost reports

(a) In this section:

(1) * * *

(2) The term "[Baseline Selected Acquisition Report] Baseline Estimate", with respect to a unit cost report that is submitted under this section to the service acquisition executive designated by the Secretary concerned on a major defense acquisition program, means the [Selected Acquisition Report in which information on the program is first included or the comprehensive annual Selected Acquisition Report for the fiscal year immediately before the fiscal year containing the quarter with respect to which the unit cost report is submitted, whichever is later.] cost estimate included in the baseline description for the program under section 2435 of this title.

* * * * * * *

[(4) The term "Baseline Report", with respect to a unit cost report that is submitted under this section to the service acquisition executive designated by the Secretary concerned on a major defense acquisition program, means-

[(A) the most recent Selected Acquisition Report submitted under subsection (e)(2)(B) that includes information on the program, if that report was submitted for the second, third, or fourth quarter of the preceding fiscal year;

[(B) if no report was submitted under subsection (e)(2)(B) with respect to the program during that three-quarter period, the most recent Selected Acquisition Report submitted under subsection (e)(1) that includes information on the program, if that report was submitted during that three-quarter period; and

[(C) if no report was submitted with respect to the program under subsection (e)(1) of (e)(2)(B) during that three-quarter period, the baseline Selected Acquisition Report.]

(b) The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 2432(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program. Each report shall be submitted not more than 30 calendar days after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

(1) The program acquisition unit cost.

(2) In the case of a procurement program, the procurement unit cost.

(3) Any cost variance or schedule variance in a major contract under the program since the [Baseline Report was submitted.] contract was entered into.

* * * * * * *

(c)[(1)] If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under subsection (b) determines at any time during a quarter that there is reasonable cause to believe-

[(A)] (1) that the program acquisition unit cost for the program has increased by at least 15 percent over the program acquisition unit cost for the program as shown in the [Baseline Report] Baseline Estimate;

[(B)] (2) in the case of a major defense acquisition program that is a procurement program, that the [current] procurement unit cost for the program has increased by at least 15 percent over the procurement unit cost for the program as reflected in the [Baseline Report] Baseline Estimate; or

[(C)] (3) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent over the cost of the contract as of the time the contract was made;

and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the service acquisition executive designated by the Secretary concerned during the current fiscal year (other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year), then the program manager shall immediately submit to such service acquisition executive a unit cost report containing the information, determined as of the date of the report, required under subsection (b).

[(2) If in any fiscal year the program manager for a major defense acquisition program has submitted to the service acquisition executive designated by the Secretary concerned a unit cost report (other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year) indicating an increase of 15 percent or more in a category described in clauses (A) through (C) of paragraph (1) and subsequently determines that there is reasonable cause to believe-

[(A) that the current program acquisition unit cost of the program has increased by at least 15 percent over the current program acquisition unit cost as shown in the most recent report under this subsection or subsection (b) submitted to such service acquisition executive with respect to that program;

[(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by at least 5 percent over the current procurement unit cost as shown in the most recent report under this subsection or subsection (b) submitted to such service acquisition executive with respect to that program; or

[(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 5 percent over the cost of the contract as shown in the most recent report under this subsection or subsection (b) submitted to such service acquisition executive with respect to that program;

the program manager shall immediately submit to such service acquisition executive a unit cost report containing the information, determined as of the date of the report, required by subsection (b).]

(d)(1) When a unit cost report is submitted to the service acquisition executive designated by the Secretary concerned under this section with respect to a major defense acquisition program, the service acquisition executive shall determine whether the current program acquisition unit cost for the program has increased by at least 15 percent, or by at least 25 percent, over the program acquisition unit cost for the program as shown in the [Baseline Report] Baseline Estimate.

(2) When a unit cost report is submitted to the service acquisition executive designated by the Secretary concerned under this section with respect to a major defense acquisition program that is a procurement program, the service acquisition executive, in addition to the determination under paragraph (1), shall determine whether the [current] procurement unit cost for the program has increased by at least 15 percent, or by at least 25 percent, over the procurement unit cost for the program as reflected in the [Baseline Report] Baseline Estimate.

(3) If, based upon the service acquisition executive's determination, the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by at least 15 percent, or by at least 25 percent, as determined under paragraph (1) or that the [current] procurement unit cost has increased by at least 15 percent, or by at least 25 percent, as determined under paragraph (2), the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program. In the case of a determination based on a quarterly report submitted in

accordance with subsection (b), the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with subsection (c), the Secretary shall submit the notification to Congress within 45 days after the date of that report. The Secretary shall include in the notification the date on which the determination was made.

(e)(1)(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the program acquisition unit cost or the [current] procurement unit cost of a major defense acquisition program has increased by at least 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 2432(e) of this title and shall be submitted in accordance with section 2432(f) of this title.

(B) Whenever the Secretary makes a determination referred to in subparagraph (A) in the case of a major defense acquisition program during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under subparagraph (A) but shall include the information described in subsection (g) regarding that program in the comprehensive annual Selected Acquisition Report submitted in that quarter.

(2) If the percentage increase in the program acquisition unit cost or [current] procurement unit cost of a major defense acquisition program (as determined by the Secretary under subsection (d)) exceeds 25 percent, the Secretary of Defense shall submit to Congress, before the end of the 30-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title-

(A) * * *

* * * * * * *

(f) Any determination of a percentage increase under this section shall [include expected inflation] be stated in terms of base fiscal year dollars (as described in section 2430 of this title).

(g)(1) Except as provided in paragraph (2), each report under subsection (e) with respect to a major defense acquisition program shall include the following:

(A) * * *

* * * * * * *

[(I) The type of the Baseline Report (under subsection (a)(4)) and the date of the Baseline Report.]

(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.

* * * * * * *

§2434. Independent cost estimates; operational manpower requirements

(a) Requirement for Approval.-The Secretary of Defense may not approve the [full-scale engineering development] engineering and manufacturing development, or the production and deployment, of a major defense acquisition program unless an independent estimate of the [cost of the program, together with] full life-cycle cost of the program, and a manpower estimate, has been considered by the Secretary.

[(b) Definitions.-In this section:

[(1) The term "independent estimate" means, with respect to a major defense acquisition program, an estimate of the cost of such program prepared by an office or other entity that is not under the supervision, direction, or control of the military department, defense agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program.

[(2) The term "cost of the program" means, with respect to a major defense acquisition program, all elements of the life-cycle costs of the program, including-

[(A) the cost of all research and development efforts, without regard to the funding source or management control;

[(B) the cost of the prime hardware and its major subcomponents, support costs (including training, peculiar support, and data), initial spares, military construction costs, and the cost of all

related procurements (including, where applicable, modifications to existing aircraft or ship platforms), without regard to the funding source or management control of the program; and

[(C) all elements of operating and support costs.

[(3) The term "manpower estimate" means, with respect to a major defense acquisition program, an estimate of-

[(A) the total number of personnel (including military, civilian, and contractor personnel), expressed in total personnel or in man-years, that will be required to operate, maintain, and support the program upon full operational deployment and to train personnel to operate, maintain, and support the program upon full operational deployment;

[(B) the increases in military and civilian personnel end strengths that will be required for full operational deployment of the program above the end strengths authorized in the fiscal year in which such an estimate is submitted and the fiscal year or years in which such increases will be required; and

[(C) the manner in which such a program would be operationally deployed if no increases in military and civilian end strengths were authorized above the strengths authorized for the fiscal year in which such estimate is submitted.]

(b) Regulations.-The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require-

(1) that the independent estimate of the full life-cycle cost of a program-

(A) be prepared by an office or other entity that is not directly responsible for carrying out the development or acquisition of the program; and

(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

(2) that the manpower estimate include the total personnel required-

(A) to operate, maintain, and support the program upon full operational deployment; and

(B) to train personnel to carry out the activities referred to in subparagraph (A).

[§2435. Enhanced program stability

[(a) Baseline Description Requirement.-(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary-

[(A) before such program enters full-scale engineering development; and

[(B) before such program enters full-rate production.

[(2) A baseline description required under paragraph (1) shall include the following:

[(A) In the case of the full-scale development stage-

[(i) a description of the performance goals for the weapons system to be acquired under the program;

[(ii) a description of the technical characteristics and configuration of such system;

[(iii) total development costs for such stage by fiscal year; and

[(iv) the schedule of production milestones.

[(B) In the case of the production stage-

[(i) a description of the performance of the weapons system to be acquired under the program;

[(ii) a description of the technical characteristics and configuration of such system;

[(iii) number of end items by fiscal year;

[(iv) the schedule of production milestones;

[(v) testing;

[(vi) initial training;

[(vii) initial provisioning; and

[(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title.

[(b) Program Deviation Reports.-(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the service acquisition executive designated by such Secretary and if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that-

[(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

[(B) any milestone specified in such baseline description will not be completed as scheduled; or

[(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

[(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1), and for which the total cost of completion of the stage will exceed by 15 percent or more, in the case of a development stage, or by 5 percent or more, in the case of a production stage, the amount specified in the baseline description established under subsection (a) for such stage; or any milestone specified in such baseline description will be missed by more than 180 days-

[(A) establish a review panel to review such program; and

[(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition and Technology before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).]

§2435. Baseline description

(a) Baseline Description Requirement.-(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the "Baseline Estimate" in section 2433 of this title), schedule, and performance of such major defense acquisition program.

(3) No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated without an approved baseline description unless such obligation is specifically approved by the Under Secretary of Defense for Acquisition and Technology.

(4) A baseline description for a major defense acquisition program shall be established-

(A) before the program enters engineering and manufacturing development; and

(B) before the program enters production and deployment.

(b) Regulations.-The Secretary of Defense shall prescribe regulations governing-

(1) the content of baseline descriptions;

(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology;

(3) procedures for review of such deviation reports within the Department of Defense; and

(4) procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.

[§2438. Major programs: competitive prototyping

[(a) Acquisition Strategy.-Except as provided in subsection (c), before development under a major defense acquisition program begins, the Secretary of Defense shall prepare an acquisition strategy for the program which provides for the competitive prototyping of the major weapon system under the program and any major subsystems of the system in accordance with subsection (b).

[(b) Competitive Prototyping Requirements.-An acquisition strategy meets the requirement of subsection (a) if it-

[(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

[(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to-

[(A) reproduce combat conditions to the extent practicable; and

[(B) determine which system or subsystem is most effective under such conditions; and

[(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in paragraph (2) is begun, submit-

[(A) cost estimates for full-scale engineering development and the basis for such estimates; and

[(B) production estimates, whenever practicable.

[(c) Exception.-Subsection (a) shall not apply to the development of a major weapon system (or subsystem of such system) after-

[(1) a written justification is submitted to the Under Secretary of Defense for Acquisition and Technology explaining why use of competitive prototyping is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of an acquisition strategy that provides for competitive prototyping with the total program cost of an acquisition strategy that does not provide for such prototyping; and

[(2) 30 days elapse after the submission of such justification to the Under Secretary of Defense for Acquisition and Technology.

[(d) Definitions.-In this section:

[(1) The term "major defense acquisition program" means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars).

[(2) The term "major weapon system" means a major weapon system that is acquired under a program that is a major defense acquisition program.

[(3) The term "subsystem of such system" means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.

[§2439. Major programs: competitive alternative sources

[(a)(1) Before full-scale development under a major program begins the Secretary of Defense shall prepare an acquisition strategy for the program.

[(2) The Secretary shall ensure that contracts for each major program and each major subsystem under such major program are awarded in accordance with the acquisition strategy for such program.

[(b)(1) The acquisition strategy prepared under subsection (a)(1) shall ensure that the Secretary will have the option to use subsystems under the major programs throughout the period from the beginning of full-scale development through the end of procurement in any case in which the establishment and maintenance of two or more sources-

[(A) would-

[(i) likely reduce technological risks associated with the program;

[(ii) likely result in reduced costs for such program; or

[(iii) likely result in an improvement in design commensurate with the additional costs;

[(B) would not result in unacceptable delays in fulfilling the needs of the Department of Defense; and

[(C) is otherwise in the national security interests of the United States.

[(2) In carrying out this subsection, the Secretary may provide that the requirement for competitive alternative sources of a major program or subsystem is satisfied even though the sources for that major program or subsystem do not develop or produce identical systems if the systems developed serve similar functions and compete effectively with each other.

[(c) In this section:

[(1) The term "major program" means a major defense acquisition program, as such term is defined in section 2430 of this title.

[(2) The term "major subsystem", with respect to a major program, means a subsystem of the system developed under the program, that is purchased directly by the United States and for which-

[(A) the amount for research, development, test, and evaluation is 10 percent or more of the amount specified in section 2430(2) of this title as the research, development, test, and evaluation funding criterion for identification of a major defense acquisition program; or

[(B) the amount for procurement is 10 percent or more of the amount specified in section 2430(2) of this title as the procurement funding criterion for identification of a major defense acquisition program.]

* * * * * * *

CHAPTER 146-CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS

Sec.

2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance.

* * * * * * *

2470. Audits of cost growth in contracts to perform depot-level maintenance and repair.

2471. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies.

2472. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by.

2473. Cost growth in commercial contracts: review by Inspector General.

* * * * * * *

§2466. Limitations on the performance of depot-level maintenance of materiel

[(a) Percentage Limitation.-(1) Except as provided in paragraph (2), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may not contract for the performance by non-Federal Government personnel of more than 40 percent of the depot-level maintenance workload for the military department or the Defense Agency.

[(2) The Secretary of the Army shall provide for the performance by employees of the Department of Defense of not less than the following percentages of Army aviation depot-level maintenance workload:

[(A) For fiscal year 1993, 50 percent.

[(B) For fiscal year 1994, 55 percent.

[(C) For fiscal year 1995, 60 percent.]

(a) Percentage Limitation.-(1) Not more than 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Any such funds that are not used for such a contract shall be used for the performance of depot-level maintenance and repair workload by employees of the Department of Defense.

(2) The Secretary concerned shall, within 5 years after the initial delivery of a weapon system by a contractor to the Department of Defense, provide for the performance by employees of the Department of Defense of not less than 60 percent of the depot-level maintenance of the weapon system.

(b) Prohibition on Management by End Strength.-The civilian employees of the Department of Defense involved in the depot-level maintenance and repair of materiel may not be managed on the basis of any end-strength constraint or limitation on the number of such employees who may be employed on the last day of a fiscal year. Such employees shall be managed solely on the basis of the available workload and the funds made available for such depot-level maintenance and repair.

* * * * * * *

(d) Computation of Percentage.-In computing for purposes of subsection (a) the percentage of funds referred to in that subsection that are used to contract for the performance of depot-level maintenance and repair workload by non-Federal Government personnel, the Secretary of the military department, or in the case of a Defense Agency, the Secretary of Defense shall include in the computation any funds provided for the performance by such personnel of the following:

(1) Interim contractor support.

(2) Contract logistic support.

(3) Maintenance and repair workload above the unit level.

(4) The provision of materials and parts by a contractor to a depot.

[(d)] (e) Exception.-Subsection (a) shall not apply with respect to the Sacramento Army Depot, Sacramento, California.

[(e) Reports.-(1) Not later than January 15, 1992, and January 15, 1993, the Secretary of the Army and the Secretary of the Air Force shall jointly submit to Congress a report describing the progress during the preceding fiscal year to achieve and maintain the percentage of depot-level maintenance required to be performed by employees of the Department of Defense pursuant to subsection (a).

[(2) Not later than January 15, 1994, the Secretary of each military department and the Secretary of Defense, with respect to the Defense Agencies, shall jointly submit to Congress a report described in paragraph (1).]

(f) Report.-Not later than January 15, 1995, the Secretary of Defense shall submit to the Congress a report describing the progress during the preceding fiscal year by each military department and Defense Agency to achieve and maintain the percentage of depot-level maintenance and repair required to be performed by employees of the Department of Defense pursuant to subsection (a).

§2467. Cost comparisons: requirements with respect to retirement costs and consultation with employees

(a) * * *

(b) Requirement to Consider Costs of Closing Depots.-In any comparison conducted by the Department of Defense of the cost of performing depot-level maintenance and repair work by non-Federal Government personnel and the cost of performing such work by employees of the Department of Defense, the Secretary of Defense shall, to the maximum extent practicable, consider the estimated cost (including the cost to perform any necessary environmental restoration of the facility) that would be incurred if the Department of Defense were required to close a Department of Defense defense depot-level facility as a result of awarding the contract to non-Federal Government personnel to perform such work.

[(b)] (c) Requirement To Consult DOD Employees.-(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A-76 whether to convert to contractor performance any commercial activity of the Department-

(A) * * *

* * * * * * *

§2468. Military installations: authority of base commanders over contracting for commercial activities

(a) * * *

* * * * * * *

(f) Termination of Authority.-The authority provided to commanders of military installations by subsection (a) shall terminate on September 30, [1994] 1995.

* * * * * * *

§2470. Audits of cost growth in contracts to perform depot-level maintenance and repair

The Secretary of Defense shall audit contracts entered into by the Department of Defense for the performance of depot-level maintenance and repair to monitor the costs incurred by the contractor to perform the contract. An audit of a contract under this section shall be performed at least once during the period in which the contract is performed and shall take account of any costs incurred by the contract in excess of the amount proposed by the contractor to perform the contract or in excess of costs incurred by the contractor during the previous year.

§2471. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies

A depot-level activity of the Department of Defense shall be eligible to compete for the performance of any depot-level maintenance and repair workload of a Federal agency for which competitive procedures are used to select the entity to perform the workload.

§2472. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by

(a) Authority to Lease Excess Equipment and Facilities.-Subject to subsection (b), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may lease excess equipment and facilities of a depot-level activity of the military department, or the Defense Agency, to a

person outside the Department of Defense for the performance of depot-level maintenance and repair work by such person.

(b) Limitations.-A lease under subsection (a) may be entered into only if-

(1) the lease of any such equipment or facilities will not have a significant adverse effect on the readiness of the armed forces, as determined by the Secretary concerned;

(2) the person leasing such equipment or facilities agrees to reimburse the Department of Defense for the costs (both direct and indirect costs, including any rental costs, as determined the Secretary concerned) attributable to the lease of such equipment or facilities;

(3) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States, except in cases of willful conduct or extreme negligence, from any claim for damages or injury to any person or property arising out the lease of such equipment or facilities; and

(4) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary concerned to suspend or terminate the lease in times of war or national emergency.

(c) Credit to General Fund.-Any reimbursement received under this section shall be credited to the General Fund of the Treasury.

§2473. Cost growth in commercial contracts: review by Inspector General

(a) Review.-Each fiscal year, the Inspector General of the Department of Defense shall conduct a review of not less than 20 percent of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any other successor administrative regulation or policy) to determine the extent to which the costs incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) Report.-Each year, not later than 30 days after the day on which the President submits to the Congress the budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the most recently conducted review under subsection (a).

* * * * * * *

CHAPTER 148-NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION

* * * * * * *

SUBCHAPTER I-DEFINITIONS

* * * * * * *

§2491. Definitions

In this chapter:

(1) * * *

* * * * * * *

(9) The term "eligible entity" means an eligible firm or a labor organization (as defined in section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)).

[(9)] (10) The term "eligible firm" means a company or other business entity that, as determined by the Secretary of Commerce-

(A) * * *

* * * * * * *

[(10)] (11) The term "manufacturing technology" means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor

management, inventory management, and worker training, as well as manufacturing equipment and software.

[(11)] (12) The term "manufacturing extension program" means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

[(12)] (13) The term "United States-based small manufacturing firm" means a company or other business entity that, as determined by the Secretary of Commerce-

(A) * * *

* * * * * * *

[(13)] (14) The term "Small Business Innovation Research Program" means the program established under the following provisions of section 9 of the Small Business Act (15 U.S.C. 638):

(A) * * *

* * * * * * *

[(14)] (15) The term "Small Business Technology Transfer Program" means the program established under the following provisions of such section:

(A) * * *

* * * * * * *

[(15)] (16) The term "significant equity percentage" means-

(A) * * *

* * * * * * *

(17) The term "person of a foreign country" has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).

* * * * * * *

SUBCHAPTER II-POLICIES AND PLANNING

Sec.

* * * * * * *

§2508. Antitrust cases with national security implications: Secretary of Defense review

(a) Review.-The Secretary of Defense shall conduct a review of any proposed acquisition of a business concern that is a critical United States defense supplier with respect to which the Attorney General or the Federal Trade Commission receives notice under the antitrust laws. In conducting such review, the Secretary shall assess the likely effect of the proposed acquisition (if carried out) on the policy objectives for the national technology and industrial base (as set forth in section 2501(a) of this title) and on such other considerations relating to national security as the Secretary considers appropriate.

(b) Communication of Views of Secretary.-In any case in which the Secretary determines, as the result of a review and assessment under subsection (a), that a proposed acquisition is likely to have an appreciable effect (whether positive or negative) on the policy objectives for the national technology and industrial base or on other considerations relevant to national security (as determined by the Secretary), the Secretary shall immediately communicate that determination, in writing, to the Attorney General and the Federal Trade

Commission. The Secretary shall include in such communication the Secretary's evaluation concerning the proposed acquisition.

(c) Definition.-In this section, the term "critical United States defense supplier" means a company organized under the laws of the United States that is-

(1) a contractor or critical subcontractor for a major system, as defined in section 2302(9) of this title;

(2) a contractor for a contract awarded to a particular source pursuant to paragraph (3) of section 2304(c) of this title for the reasons described in clause (A) of that paragraph; or

(3) in such other category as the Secretary of Defense may prescribe by regulation as being critical to the national technology and industrial base.

* * * * * * *

SUBCHAPTER III-PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

* * * * * * *

§2511. Defense dual-use critical technology partnerships

(a) * * *

(b) Non-Department of Defense Participants.-In the case of each partnership, the entities with which the Secretary enters into the partnership shall include two or more [eligible firms] eligible entities or a nonprofit research corporation established by two or more [eligible firms] eligible entities and, may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, Government-owned and operated industrial facilities, institutions of higher education, agencies of State governments, and other entities that participate in the partnership by supporting the activities conducted by [such firms] such eligible entities or corporations under this section.

(c) Financial Commitment of Non-Federal Government Participants.-(1) * * *

* * * * * * *

(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 90 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.

* * * * * * *

(f) Selection Criteria.-The criteria for the selection of proposed partnerships for establishment under this section shall include the following:

(1) * * *

* * * * * * *

(6) The extent of the financial commitment of [eligible firms] eligible entities to the proposed partnership.

* * * * * * *

§2512. Commercial-military integration partnerships

(a) Establishment of Partnerships.-The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by providing for the establishment of cooperative arrangements (hereinafter in this section referred to as "partnerships") between the Department of Defense and one or more [eligible firms] eligible entities and nonprofit research corporations referred to

in section 2511(b) of this title. A partnership may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, institutions of higher education, agencies of State governments, and other entities that participate in the partnership by supporting the activities conducted by [such firms] such eligible entities or corporations under this section.

* * * * * * *

(c) Financial Commitment of Non-Federal Government Participants.-(1) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 90 days within which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.

* * * * * * *

(e) Selection Criteria.-The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

(1) * * *

* * * * * * *

(6) The extent of the financial commitment of the [eligible firms] eligible entities to the proposed partnership.

* * * * * * *

§2513. Regional technology alliances assistance program

(a) * * *

* * * * * * *

(c) Program Participants.-(1) The participants in a regional technology alliance-

(A) shall include-

(i) eligible firms that conduct business in the region of the United States served or to be served by the regional technology alliance or other eligible entities operating in such region; and

* * * * * * *

(e) Financial Contributions of Alliance Participants.-(1) The sponsoring agency of a regional technology alliance and the [eligible firms] eligible entities participating in the regional technology alliance shall pay at least 50 percent of the total cost incurred each year for the activities of the regional technology alliance. Funds contributed for the activities of the regional technology alliance by institutions of higher education or private, nonprofit organizations participating in the regional technology alliance shall be considered as funds contributed by the sponsoring agency.

(2) If the right to use or license the results of any research and development activity of a regional technology alliance is limited by participants in the regional technology alliance to one or more, but less than one-half, of the [eligible firms] eligible entities participating in the regional technology alliance, the non-Federal Government participants in the regional technology alliance shall pay the total cost incurred for such activity.

* * * * * * *

(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 90 days within which to arrange to meet its financial commitment requirements under the regional technology alliance from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary may revoke the selection of the proposal submitted by the small business concern.

(f) Management Plan.-A regional technology alliance shall operate under a management plan that includes provisions for the [eligible firms] eligible entities participating in the regional technology alliance to have the primary responsibility for directing the activities of the regional technology alliance and to exercise that responsibility through, among any other means, majority voting membership of [such firms] such eligible entities on the board of directors of the regional technology alliance.

* * * * * * *

SUBCHAPTER IV-MANUFACTURING TECHNOLOGY AND DUAL-USE ASSISTANCE EXTENSION PROGRAMS

* * * * * * *

§2522. Defense Advanced Manufacturing Technology Partnerships

(a) * * *

(b) Non-Department of Defense Participants.-In the case of each partnership, the entities with which the Secretary enters into the partnership shall include two or more [eligible firms] eligible entities or a nonprofit research corporation established by two or more [eligible firms] eligible entities and may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, institutions of higher education, agencies of State governments, and other entities that participate in the partnership by supporting the activities conducted by [such firms] such eligible entities or corporations under this section. A partnership may include other organizations considered appropriate by the Secretary of Defense.

* * * * * * *

§2523. Manufacturing extension programs

(a) * * *

(b) Program Requirements.-(1) * * *

* * * * * * *

(3)(A) * * *

* * * * * * *

(E) The Secretary shall consider a proposal for a manufacturing extension program that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the program. Upon the selection of a proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 90 days within which to arrange to meet its financial commitment requirements under the manufacturing extension program from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated costs, the Secretary may revoke the selection of the partnership proposal submitted by the small business concern.

* * * * * * *

§2524. Defense dual-use assistance extension program

(a) * * *

* * * * * * *

(d) Financial Commitment of Non-Federal Government Participants.-(1) * * *

* * * * * * *

(3) The Secretary shall consider a program proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a proposal submitted by a small business concern, the Secretary shall extend to the small business concern a period of not less than 90 days within which to arrange to meet its financial commitment requirements under the program from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated program costs, the Secretary may revoke the selection of the program proposal submitted by the small business concern.

* * * * * * *

(f) Selection Criteria.-The criteria for the selection of a program to receive assistance under this section shall include the following:

(1) * * *

* * * * * * *

(10) In the case of loan guarantees under subsection (b)(3), the extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

[(10)] (11) Such other criteria as the Secretary prescribes.

* * * * * * *

SUBCHAPTER V-MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

Sec.

2531. Defense memoranda of understanding and related agreements.

2532. Offset policy; notification.

* * * * * * *

2542. Factories and arsenals: manufacture at.

* * * * * * *

§2534. Miscellaneous limitations on the procurement of goods other than United States goods

[(a) Buses.-Funds appropriated for use by the armed forces are available to acquire a multipassenger motor vehicle (bus) only if the vehicle is manufactured in the United States. However, the Secretary of Defense may prescribe regulations authorizing the acquisition of a multipassenger motor vehicle (bus) not manufactured in the United States, but only to ensure that compliance with this subsection will not result in an uneconomical procurement action or adversely affect the national interest.

[(b) Chemical Weapons Antidote Manufactured Overseas.-Funds appropriated to the Department of Defense may not be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning Program of the Department of Defense unless-

[(1) such injector or component is manufactured in the United States by a company which is an existing producer under the industrial preparedness program at the time the contract is awarded and which-

[(A) has received all required regulatory approvals; and

[(B) has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

[(2) the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, determines that such procurement from a source in addition to a source described in paragraph (1) is critical to the national security.

[(c) Valves and Machine Tools.-(1) Effective through fiscal year 1996, funds appropriated or otherwise made available to the Department of Defense may not be used to enter into a contract for the procurement of items described in paragraph (2) that are not manufactured in the United States or Canada.

[(2) Items covered by paragraph (1) are the following:

[(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

[(B) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

[(3) Contracts covered by paragraph (1) include the following:

[(A) Contracts for the procurement of items described in paragraph (2) for use in any property under the control of the Department of Defense, including Government-owned, contractor-operated facilities.

[(B) Contracts entered into by contractors on behalf of the Department of Defense for the procurement of items described in paragraph (2) for the purposes of providing the items to other contractors as Government-furnished equipment.

[(4) In any case in which a contract subject to the requirement of paragraph (1) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories described in paragraph (2), each supply class shall be evaluated separately for purposes of determining whether the limitation in this subsection applies.

[(5) The Secretary of Defense may waive the requirement of paragraph (1) with respect to the procurement of an item if the Secretary determines that any of the following apply with respect to that item:

[(A) The restriction would cause unreasonable costs or delays to be incurred.

[(B) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

[(C) Satisfactory quality items manufactured in the United States or Canada are not available.

[(D) The restriction would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

[(E) The procurement is for an amount less than $25,000 and simplified small purchase procedures are being used.

[(F) The restriction would result in the existence of only one United States or Canadian source for the item.

[(d) Carbonyl Iron Powders.-(1) Until January 1, 1993, the Secretary of Defense shall require that only domestically manufactured carbonyl iron powders may be used in a system or item procured by or provided to the Department of Defense.

[(2) The Secretary of Defense may waive the restriction required by paragraph (1) if the Secretary certifies that such a restriction is not in the national interest.

[(3) In this subsection:

[(A) The term "domestically manufactured" means manufactured in a facility located in the United States or Canada.

[(B) The term "carbonyl iron powders" means powders or particles produced from the thermal decomposition of iron penta carbonyl.

[(e) Air Circuit Breakers.-(1) The Secretary of Defense may not procure air circuit breakers for naval vessels unless-

[(A) the air circuit breakers are produced or manufactured in the United States; and

[(B) substantially all of the components of the air circuit breakers are produced or manufactured in the United States.

[(2) For purposes of paragraph (1)(B), substantially all of the components of air circuit breakers shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

[(3) Paragraph (1) does not prevent the procurement of spares and repair parts needed to support air circuit breakers produced or manufactured outside the United States.

[(4) The Secretary of Defense may waive the limitation in paragraph (1) on a case-by-case basis with respect to any procurement if the Secretary determines that carrying out a proposed procurement in accordance with the limitation in that case-=

[(A) is not in the national security interests of the United States;

[(B) will have an adverse effect on a United States company; or

[(C) will result in procurement from a United States company that, with respect to the sale of air circuit breakers, fails to comply with applicable Government procurement regulations or the antitrust laws of the United States.

[(5) Whenever the Secretary proposes to grant a waiver under paragraph (4), the Secretary shall submit a notice of the proposed waiver, together with a statement of the reasons for the proposed waiver, to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives. The waiver may then be granted only after the end of the 30-day period beginning on the date on which the notice is received by those committees.

[(f) Sonobuoys.-(1) The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country if United States firms that manufacture sonobuoys are not permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

[(2) The Secretary may waive the limitation in paragraph (1) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

[(3) In this subsection, the term "United States firm" has the meaning given such term in section 2532(d)(1) of this title.]

(a) Limitation on Certain Procurements.-The Secretary of Defense may procure the following items only if they are manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title):

(1) Buses.-Multipassenger motor vehicles (buses).

(2) Chemical weapons antidote.-Chemical weapons antidote contained in automatic injectors (or components for such injectors), but only if the company that manufactures the item not only manufactures it in the United States but also meets the following requirements:

(A) The company is an existing producer under the industrial preparedness program at the time the contract is awarded.

(B) The company has received all required regulatory approvals.

(C) The company has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded.

(3) Valves and machine tools.-(A) Items in the following categories:

(i) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

(ii) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

(B) Contracts for the procurement of items described in subparagraph (A) include contracts-

(i) for the use of such items in any property under the control of the Department of Defense, including Government-owned, contractor-operated facilities; and

(ii) entered into by contractors on behalf of the Department of Defense for the purposes of providing such items to other contractors as Government-furnished equipment.

(C) In any case in which a contract for items described in subparagraph (A) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories,

each supply class shall be evaluated separately for purposes of determining whether the limitation in this subsection applies.

(D) This paragraph is effective through fiscal year 1996.

(4) Air circuit breakers.-Air circuit breakers for naval vessels.

(5) Sonobuoys.-Sonobuoys.

(6) Ball bearings and roller bearings.-Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992. This paragraph is effective through fiscal year 1995.

(b) Exceptions.-The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in that subsection if the Secretary determines that any of the following apply:

(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

(7) Application of the limitation is not in the national security interests of the United States.

(8) Application of the limitation would adversely affect a United States company.

(c) Principle of Construction with Future Laws.-A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law-

(1) specifically refers to this section;

(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.

(d) Inapplicability to Contracts under Simplified Acquisition Threshold.-This section does not apply to a contract for an amount that does not exceed the simplified acquisition threshold.

* * * * * * *

§2542. Factories and arsenals: manufacture at

(a) The Secretary of Defense or the Secretary of a military department may have supplies needed for the Department of Defense or such military department, as the case may be, made in factories or arsenals owned by the United States.

(b) The Secretary of Defense or the Secretary of the military department concerned may abolish any •United States arsenal that such Secretary considers unnecessary.

* * * * * * *

CHAPTER 157-TRANSPORTATION

* * * * * * *

§2641. Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft

(a) The Secretary of Defense may provide transportation on an aircraft operating under the aeromedical evacuation system of the Department of Defense for the purpose of transporting a veteran to or from a Department of Veterans Affairs medical facility or of transporting the remains of a deceased veteran who

died at the facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place.

(b) Transportation under this section shall be provided in accordance with an agreement entered into between the Secretary of Defense and the Secretary of Veterans Affairs. Such an agreement shall provide that transportation may be furnished to a veteran or for the remains of a veteran on an aircraft referred to in subsection (a) only if-

(1) the Secretary of Veterans Affairs notifies the Secretary of Defense that the veteran needs or has been furnished medical care or services in a Department of Veterans Affairs facility and the Secretary of Veterans Affairs requests such transportation in connection with the travel of such veteran or of the remains of such veteran to or from the Department of Veterans Affairs facility where the care or services are to be furnished or were furnished to such veteran;

(2) there is space available for the veteran or the remains of the veteran on the aircraft; and

(3) there is an adequate number of medical and other service attendants to care for all persons being transported on the aircraft.

(c) A veteran is not eligible for transportation under this section unless the veteran is a primary beneficiary within the meaning of clause (A) of section [5011] 8111(g)(5) of title 38.

(d)(1) A charge may not be imposed on a veteran or on the survivors of a veteran for transportation provided to the veteran or for the remains of the veteran under this section.

(2) An agreement under subsection (b) shall provide that the Department of Veterans Affairs shall reimburse the Department of Defense for any costs incurred in providing transportation to veterans or for the remains of veterans under this section that would not otherwise have been incurred by the Department of Defense.

* * * * * * *

CHAPTER 169-MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

* * * * * * *

SUBCHAPTER I-MILITARY CONSTRUCTION

Sec.

2801. Scope of chapter; definitions.

* * * * * * *

[2811. Renovation of facilities.]

2811. Repair or renovation of facilities.

* * * * * * *

[§2811. Renovation of facilities]

§2811. Repair or renovation of facilities

(a) The Secretary concerned may carry out repair projects and renovation projects [that combine maintenance, repair, and minor construction projects] for an entire single-purpose facility, or one or more functional areas of a multipurpose facility, using funds available for operations and maintenance. For purposes of this section, a repair project combines maintenance and repair for a facility and a renovation project combines maintenance, repair, and minor construction projects.

(b) The amount obligated on such a repair project or renovation project may not exceed the maximum amount specified by law for a minor construction project under section 2805 of this title.

* * * * * * *

SUBCHAPTER II-MILITARY FAMILY HOUSING

Sec.

§2837. Investment agreements with private developers of housing

(a) Investment Agreements.-The Secretary of the Navy may enter into investment agreements with private developers to encourage the construction of housing and accessory structures within commuting distance of a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members of the naval service with or without dependents.

(b) Collateral Incentive Agreements.-The Secretary may also enter into collateral incentive agreements with private developers who enter into an investment agreement under subsection (a) to ensure that, where appropriate-

(1) members of the naval service will have priority for a fair share of any housing within the scope of the investment contract; or

(2) rental rates or sale prices, as appropriate, for some or all of the units will be affordable for such members.

(c) Transfer of Navy Lands Prohibited.-Nothing in this section shall be construed to permit the Secretary, as part of an agreement entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

(d) Expiration of Authority.-The authority of the Secretary to enter into an agreement under this section shall expire on September 30, 1999.

§2838. Navy Housing Investment Board

(a) Establishment.-The Secretary of the Navy may establish a board to be known as the "Navy Housing Investment Board".

(b) Members.-(1) The Navy Housing Investment Board shall be composed of seven members appointed for a two-year term by the Secretary. Among such members, the Secretary may appoint two persons from the private sector who have knowledge and experience in the financing and the construction of housing.

(2) The Secretary shall designate one of the members as chairperson of the Board.

(3) Members of the Board, other than those members regularly employed by the Federal Government, may be paid while attending meetings of the Board or otherwise serving at the request of the Secretary, compensation at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board. Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) Duties.-The Navy Housing Investment Board shall-

(1) advise the Secretary regarding which proposed investment agreements under section 2837 of this title, if any, are financially and otherwise sound investments for meeting the objectives of such section; and

(2) assist the Secretary in such other ways as the Secretary determines to be necessary and appropriate.

(d) Selection of Investment Opportunities.-Any investment agreement under section 2837 of this title shall be made through the use of publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title.

(e) Account.-(1) There is hereby established on the books of the Treasury an account to be known as the "Navy Housing Investment Account", which shall be administered by the Navy Housing Investment Board.

(2) There shall be deposited into the Account-

(A) such funds as may be authorized for and appropriated to the Account; and

(B) any proceeds received from the repayment of investments or profits on investments under section 2837 of this title.

(3) In such amounts as is provided in advance in appropriation Acts, the Account shall be available for contracts, investments, and expenses necessary for the implementation of this section and section 2837 of this title.

(f) Report.-Not later than 60 days after the end of each fiscal year in which the Secretary and Navy Housing Investment Board carry out activities under section 2837 of this title, the Secretary shall transmit a report to Congress specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year.

(g) Termination of Board.-The Navy Housing Investment Board shall terminate on November 30, 1999.

* * * * * * *

SUBTITLE B-ARMY

* * * * * * *

PART I-ORGANIZATION

* * * * * * *

CHAPTER 305-THE ARMY STAFF

Sec.

3031. The Army Staff: function; composition.

* * * * * * *

[3040. Chief of National Guard Bureau; appointment; acting chief.]

* * * * * * *

[§3040. Chief of National Guard Bureau: appointment; acting chief

[(a) There is a National Guard Bureau, which is a Joint Bureau of the Department of the Army and the Department of the Air Force, headed by a chief who is the adviser to the Army Chief of Staff and the Air Force Chief of Staff on National Guard matters. The National Guard Bureau is the channel of communication between the departments concerned and the several States, Territories, Puerto Rico, and the District of Columbia on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

[(b) The President, by and with the advice and consent of the Senate, shall appoint the Chief of the National Guard Bureau from officers of the Army National Guard of the United States or the Air National Guard of the United States who-

[(1) have been recommended by their respective governors;

[(2) have had at least 10 years of commissioned service in the active National Guard; and

[(3) are in a grade above lieutenant colonel.

[(c) The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time and may not hold that office after he becomes 64 years of age. He is eligible to succeed himself. If he holds a lower reserve grade he shall be appointed as a Reserve in his armed force in the grade of major general for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

[(d) If the Chief of the National Guard Bureau is unable, because of disability, to perform the functions of his office, or if that office is vacant, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty in the Bureau shall act as its chief until the disability ceases or a successor is appointed.]

* * * * * * *

CHAPTER 307-THE ARMY

Sec.
3061. Regulations.

* * * * * * *

3083. Army Reserve Command.

* * * * * * *

§3083. Army Reserve Command

(a) Establishment of Command.-There is in the Army a United States Army Reserve Command, which shall be maintained as a separate command of the Army. The Army Reserve Command shall be established and maintained by the Secretary of the Army with the advice and assistance of the Chief of Staff of the Army.

(b) Supervision By Chief of Staff.-The Secretary of the Army shall provide for the Chief of Staff of the Army to exercise supervision over the Army Reserve Command and to perform all other responsibilities and functions with respect to such command as are specified or authorized in subsections (c), (d), and (e) of section 3033 of this title.

(c) Commander.-Unless otherwise directed by the Secretary, the Chief of the Army Reserve shall be the commander of the Army Reserve Command. The commander of the Army Reserve Command reports directly to the Chief of Staff of the Army.

(d) Assignment of Forces.-The Secretary of the Army shall assign to the Army Reserve Command all forces of the Army Reserve.

(e) Functions of Chief of Staff.-The Chief of Staff of the Army, acting through the active component command structure, shall-

(1) be responsible for establishing standards, evaluating units, validating units, and providing training assistance for the Army Reserve in the areas of unit training, readiness, and mobilization;

(2) establish procedures for the evaluation of reserve component units by active component units for the purpose of determining whether, or to what extent, they meet the standards established under paragraph (1);

(3) establish policies for acceptance of premobilization readiness evaluation results where appropriate during a mobilization in order to minimize the time required to certify reserve units as ready for combat operations and to avoid unnecessary duplicative training;

(4) validate and certify the readiness of reserve component units after they are mobilized; and

(5) establish training doctrine (with associated tasks, conditions, and standards) for individual and unit training and standards, control of certification, and validation for all courses, instructors, and students for the Army Reserve.

(f) Responsibility.-The commander of the Army Reserve Command is responsible for meeting the standards and complying with the evaluation, certification, and validation requirements established by the Chief of Staff pursuant to paragraphs (1) and (2) of subsection (e).

* * * * * * *

PART II-PERSONNEL

* * * * * * *

CHAPTER 367-RETIREMENT FOR LENGTH OF SERVICE

* * * * * * *

§3914. Twenty to thirty years: enlisted members

Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. [A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service

computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.]

* * * * * * *

§3925. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Army may be retired under section 3914 or 3917 of this title, [and of computing his retired pay under section 3991 of this title,] his years of service are computed by adding all active service in the armed forces and service computed under section 3683 of this title.

* * * * * * *

[(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title-

[(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as \1/12\ of a year; and

[(2) any remaining fractional part of a year shall be disregarded.]

* * * * * * *

CHAPTER 371-COMPUTATION OF RETIRED PAY

* * * * * * *

§3991. Computation of retired pay

(a) Computation.-

(1) In general.-The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

Formula	For Sections	Column 1 Take	Column 2 Multiply by 1
A	3911 3918 3920 3924	Retired pay base as computed under section 1406(c) or 1407	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	3914 3917	Retired pay base as computed under section 1406(c) or 1407	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section [3925] 1405.

* * * * * * *

§3992. Recomputation of retired pay to reflect advancement on retired list

An enlisted member of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay under formula A of the following table, and a warrant officer of the Army so advanced is entitled to recompute his retired pay under formula B of that table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section [3925] 1405 of this title.
B	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

* * * * * * *

CHAPTER 433-PROCUREMENT

Sec.
[4532. Factories and arsenals: manufacture at; abolition of.]

* * * * * * *

[§4532. Factories and arsenals: manufacture at; abolition of

[(a) The Secretary of the Army shall have supplies needed for the Department of the Army made in factories or arsenals owned by the United States, so far as those factories or arsenals can make those supplies on an economical basis.

[(b) The Secretary may abolish any United States arsenal that he considers unnecessary.]

* * * * * * *

SUBTITLE C-NAVY AND MARINE CORPS

* * * * * * *

PART II-PERSONNEL

* * * * * * *

CHAPTER 539-ORIGINAL APPOINTMENTS

* * * * * * *

§5589. Regular Navy and Regular Marine Corps: officers designated for limited duty

(a) * * *

* * * * * * *

(c) An officer designated for limited duty who is serving on active duty pursuant to a temporary appointment under section 5596 of this title may be given an original appointment under this section with the same grade and date of rank as the officer held pursuant to the temporary appointment.

[(c)] (d) To be eligible for an appointment under this section a member must have the qualifications specified in section 532(a) of this title and have completed at least 10 years of active naval service, excluding active duty for training in a reserve component.

[(d)] (e) Each officer appointed under this section is known as an officer designated for limited duty. He may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former permanent status.

[(e)] (f) Any officer designated for limited duty, upon his application and upon determination by the Secretary of the Navy that he is qualified, may-

(1) if he is in the line of the Navy, be designated for engineering duty, aeronautical engineering duty, or special duty, or be assigned to unrestricted performance of duty;

(2) if he is in a staff corps of the Navy, be assigned to unrestricted performance of duty in that corps; or

(3) if he is in the Marine Corps, be assigned to unrestricted performance of duty.

When an officer is so designated or assigned, his status as an officer designated for limited duty terminates.

[(f)] (g) The Secretary shall prescribe regulations for the appointment, designation, and assignment of officers under this section.

* * * * * * *

CHAPTER 571-VOLUNTARY RETIREMENT

* * * * * * *

§6333. Computation of retired and retainer pay

(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6383 of this title is computed in accordance with the following table.

Formula	For sections	Column 1 Take	Column 2 Multiply by
A	6325(a) 6326	Retired pay base computed under section 1406(d) or 1407	75 percent.
B	6323 6325(b) 6383	Retired pay base computed under section 1406(d) or 1407	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.
C	6330	Retainer pay base computed under section 1406(d) or 1407	Retainer pay multiplier prescribed under section 1409 for [his years of active service in the armed forces] the years of service that may be credited to him under section 1405.

* * * * * * *

CHAPTER 573-INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

* * * * * * *

§6383. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay

(a)(1) [Except as provided in subsection (i),] Except as provided in subsections (f) and (h), each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer designated for limited duty shall be retired on the last day of the month following the month in which he completes 30 years of active naval service, exclusive of active duty for training in a reserve component.

(2) [Except as provided in subsection (i),] Except as provided in subsections (f) and (h), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall-

(A) * * *

* * * * * * *

(3) [Except as provided in subsection (i),] Except as provided in subsections (f) and (h), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

(4) [Except as provided in subsection (i),] Except as provided in subsections (f) and (h), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

* * * * * * *

(b) [Except as provided in subsection (i),] Except as provided in subsections (f) and (h), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time.

* * * * * * *

(d) [Except as provided in subsection (i),] Except as provided in subsections (f) and (h), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

* * * * * * *

[(f) If any officer subject to discharge under subsection (d) or (e) had the permanent status of a warrant officer when first appointed as an officer designated for limited duty, he has the option, instead of being

discharged, of reverting to the grade and status he would hold if he had not been so appointed. If any such officer had a permanent grade below the grade of warrant officer, W-1, when first so appointed, he has the option, instead of being discharged, of reverting to the grade and status he would hold if he had not been so appointed but had instead been appointed a warrant officer, W-1.]

(f)(1) An officer subject to discharge under subsection (b), (d), or (e) who is not eligible for retirement and to whom paragraph (2) does not apply may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in the grade prescribed by the Secretary.

(2) If an officer subject to discharge under subsection (b) or (d) is, on the date on which the officer is to be discharged, within two years of qualifying for retirement under section 6323 of this title, the officer shall be retained on active duty until qualified for retirement and shall then be retired under that section, unless the officer is sooner retired or discharged under another provision of law.

[(g) In any computation to determine the grade and status to which an officer may revert under this section, all active service as an officer designated for limited duty or as a temporary or reserve officer is included.

[(h)] (g) An officer discharged under this section is entitled, if eligible therefor, to separation pay under section 1174(a)(1) of this title.

[(i)] (h) Under such regulations as he may prescribe, whenever the needs of the service require, the Secretary of the Navy may defer the retirement under subsection (a) or (b) [or the discharge under subsection (d)] or the discharge under subsection (b) or (d) of any officer designated for limited duty upon recommendation of a board of officers convened under section 611(b) of this title and with the consent of the officer concerned. An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier. During the period beginning on July 1, 1993, and ending on October 1, 1999, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.

[(j)] (i) This section does not apply to officers designated for limited duty under section 5596 of this title.

* * * * * * *

CHAPTER 633-NAVAL VESSELS

Sec.

* * * * * * *

* * * * * * *

[§7299. Contracts: application of Public Contracts Act

[Each contract for the construction, alteration, furnishing, or equipping of a naval vessel is subject to the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (commonly referred to as the "Walsh-Healey Act") (41 U.S.C. 35-45), as amended, unless the President determines that this requirement is not in the interest of national defense.]

* * * * * * *

SUBTITLE D-AIR FORCE

* * * * * * *

PART II-PERSONNEL

* * * * * * *

CHAPTER 867-RETIREMENT FOR LENGTH OF SERVICE

* * * * * * *

§8914. Twenty to thirty years: enlisted members

Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. [A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years.]

* * * * * * *

§8925. Computation of years of service: voluntary retirement; enlisted members

(a) For the purpose of determining whether an enlisted member of the Air Force may be retired under section 8914 or 8917 of this title, [and of computing his retired pay under section 8991 of this title,] his years of service are computed by adding all active service in the armed forces.

* * * * * * *

[(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 8991 of this title-

[(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as \1/12\ of a year; and

[(2) any remaining fractional part of a year shall be disregarded.]

* * * * * * *

CHAPTER 871-COMPUTATION OF RETIRED PAY

* * * * * * *

§8991. Computation of retired pay

(a) Computation.-

(1) In general.-The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

Formula	For sections	Column 1 Take	Column 2 Multiply by

A	8911 8918 8920 8924	Retired pay base as computed under section 1406(e) or 1407	The Retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	8914 8917	Retired pay base as computed under section 1406(e) or 1407	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section [8925] 1405.

* * * * * * *

§8992. Recomputation of retired pay to reflect advancement on retired list

An enlisted member of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay under formula A of the following table, and a warrant officer of the Air Force so advanced is entitled to recompute his retired pay under formula B of that table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(e) or 1407 of this title	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section [8925] 1405 of this title.[1]
B	Retired pay base as computed under section 1406(e) or 1407 of this title	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1]In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.

* * * * * * *

PART III-TRAINING

* * * * * * *

CHAPTER 909-CIVIL AIR PATROL

* * * * * * *

§9441. Status: support by Air Force; employment

(a) * * *

(b) To assist the Civil Air Patrol in the fulfillment of its objectives as set forth in section 2 of the Act of July 1, 1946 (36 U.S.C. 202), the Secretary of the Air Force may, under regulations prescribed by him with the approval of the Secretary of Defense-

(1) * * *

* * * * * * *

(8) provide funds for the national headquarters of the Civil Air Patrol, including the provision (in advance of payment) of funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;

[(8)] (9) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions;

[(9)] (10) authorize the payment of expenses of placing into serviceable condition major items of equipment (including aircraft, motor vehicles, and communications equipment) owned by the Civil Air Patrol;

[(10)] (11) reimburse the Civil Air Patrol for costs incurred for the purchase of such major items of equipment as the Secretary considers needed by the Civil Air Patrol to carry out its missions; and

[(11)] (12) furnish articles of the Air Force uniform to Civil Air Patrol cadets without cost to such cadets.

* * * * * * *

(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, retired members of the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

(2) A retired member employed pursuant to paragraph (1) may receive the member's retired pay and an additional amount that is not more than the difference between the member's retired pay and the pay and allowances the member would be entitled to receive if ordered to active duty in the grade in which the member retired. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds generally available to the Air Force for civil air assistance.

(3) A retired member employed pursuant to paragraph (1) shall not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.

* * * * * * *

PART IV-SERVICE, SUPPLY, AND PROCUREMENT

* * * * * * *

CHAPTER 931-CIVIL RESERVE AIR FLEET

Sec.

§9511. Definitions

In this subchapter:

(1) * * *

* * * * * * *

(8) The term "contractor" means a citizen of the United States (A) who owns or controls, or who will own or control, a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features in that aircraft and to commit that aircraft to the Civil Reserve Air Fleet, [or] (B) who subsequently obtains ownership or control of a civil aircraft covered by such a contract and assumes all existing obligations under that contract, or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet.

* * * * * * *

§9512. Contracts for the inclusion or incorporation of defense features

(a) Authority to Contract.-Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary-

(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

(b) Contract Requirements.-Each contract [under section 9512 of this title] entered into under this section shall provide-

(1) that any aircraft covered by the contract shall be committed to the Civil Reserve Air Fleet;

(2) that, so long as the aircraft is owned or controlled by a contractor, the contractor shall operate the aircraft for the Department of Defense as needed during any activation of the full Civil Reserve Air Fleet, notwithstanding any other contract or commitment of that contractor; and

(3) that the contractor operating the aircraft for the Department of Defense shall be paid for that operation at fair and reasonable rates.

[(b)] (c) Terms and Required Repayment.-Each contract entered into under subsection (a) shall include [the terms required by section 9513 of this title and] a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if-

(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

(4) the registration of the aircraft under section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is terminated for any reason not beyond the control of the contractor.

[(c)] (d) Authority To Contract and Pay Directly.-(1) A contract under subsection (a) for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary-

(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

(B) to pay such other person directly for such work.

(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.

(e) Commitment to Civil Reserve Air Fleet.-Notwithstanding section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), each aircraft covered by a contract [under section 9512 of this title] entered into under this section shall be committed exclusively to the Civil Reserve Air Fleet for use by the Department of Defense as needed during any activation of the full Civil Reserve Air Fleet unless the aircraft is released from that use by the Secretary of Defense.

[§9513. Commitment of aircraft to the Civil Reserve Air Fleet]

§9513. Use of military installations by Civil Reserve Air Fleet contractors

(a) Contract Authority.-(1) The Secretary of the Air Force-

(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

(b) Purposes of Use.-A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

(c) Hold Harmless Requirement.-A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

(d) Reservation of Right To Exclude Contractor.-A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.

CHAPTER 933-PROCUREMENT

Sec.

[9532. Factories, arsenals, and depots: manufacture at.]

* * * * * * *

[§9532. Factories, arsenals, and depots: manufacture at

[The Secretary of the Air Force may have supplies needed for the Department of the Air Force made in factories, arsenals, or depots owned by the United States, so far as those factories, arsenals, or depots can make those supplies on an economical basis.]

* * * * * * *

DEFENSE DEPENDENTS' EDUCATION ACT OF 1978

* * * * * * *

TUITION-PAYING STUDENTS

Sec. 1404. (a) * * *

(b)(1) Except as otherwise provided under subsection (c), any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section. The Secretary may not impose a ceiling for a tuition rate determined under this paragraph.

* * * * * * *

SCHOOL SYSTEM FOR DEPENDENTS IN OVERSEAS AREAS

Sec. 1407. (a) The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

* * * * * * *

(e)(1)(A) Each school year, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall conduct an evaluation of each school referred to in subparagraph (B) to assess the alternatives to operating that school.

(B) A school referred to in subparagraph (A) is a school of the defense dependents' education system that had, during the previous school year, an enrollment at any time during the school year (except during a summer school session) of fewer than 150 students or that is projected to have such an enrollment during the next school year.

(2) If, after the evaluation conducted under paragraph (1), the Secretary determines that a school referred to in paragraph (1)(B) should remain open, the Secretary shall require the payment each fiscal year of 70 percent of the costs to operate the school from operations and maintenance funds appropriated to the military departments during that fiscal year. The ratio of funds paid by a military department in a fiscal year under this paragraph shall bear the same ratio to the total amount of funds paid by the military departments in a fiscal year under this paragraph as the ratio of the number of students enrolled in the school who are sponsored by a member of that service bears to the number of all students enrolled in the school who are sponsored by a member of the Armed Forces.

* * * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

* * * * * * *

DIVISION A-DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * * * *

TITLE IX-DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A-GENERAL MANAGEMENT MATTERS

* * * * * * *

[SEC. 903. ARMY RESERVE COMMAND

[(a) Establishment of Command.-The Secretary of the Army, with the advice and assistance of the Chief of Staff of the Army, shall establish a United States Army Reserve Command under the command of the Chief of Army Reserve. The Army Reserve Command shall be a major subordinate command of Forces Command.

[(b) Assignment of Forces.-The Secretary of the Army-

[(1) shall assign to the Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code; and

[(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Secretary of the Army specified in section 3013 of title 10, United States Code, shall assign all such forces of the Army Reserve to the Commander-in-Chief, Forces Command.]

* * * * * * *

TITLE X-DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) Support to Other Agencies.-During fiscal years 1991 through [1995] 1997, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested-

(1) * * *

* * * * * * *

TITLE XIV-GENERAL PROVISIONS

* * * * * * *

PART B-NAVAL VESSELS AND SHIPYARDS

* * * * * * *

SEC. 1425. AUTHORIZATION FOR NAVAL SHIPYARDS AND AVIATION DEPOTS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES DURING FISCAL YEAR 1991

(a) * * *

* * * * * * *

(e) Expiration of Authority.-The authority provided by this section expires on September 30, [1994] 1995.

* * * * * * *

TITLE XV-ARMED FORCES RETIREMENT HOME

SEC. 1501. SHORT TITLE

This title may be cited as the "Armed Forces Retirement Home Act of 1991".

* * * * * * *

SEC. 1514. FEES PAID BY RESIDENTS

(a) * * *

* * * * * * *

(c) Fixing Fees.-(1) * * *

[(2) The fee shall be fixed as a percentage of Federal payments made to a resident, including monthly retired or retainer pay, monthly civil service annuity, monthly compensation or pension paid to the resident by the Secretary of Veterans Affairs, and Social Security payments. Residents who do not receive such Federal payments shall be required to pay a monthly fee that is equivalent to the average monthly fee paid by residents who receive Federal payments, subject to such adjustments in the fee as the Retirement Home Board may make. The percentage shall be the same for each establishment of the Retirement Home.]

(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.

[(d) Application of Fees to Current Residents of the Naval Home and the Soldiers' and Airmen's Home.-(1) Each resident of the Naval Home who becomes a resident of the Retirement Home on the effective date specified in section 1541(a) shall begin paying a monthly fee that is equal to 12.5 percent of the Federal payments made to the resident. Each year thereafter, the fee for such resident under this subsection shall be increased 2.5 percent until the percentage fixed under subsection (c) has been reached. Such percentage increase may be adjusted so that the conversion to the fee fixed under subsection (c) is accomplished under this subsection within six years after such effective date.

[(2) A resident of the United States Soldiers' and Airmen's Home who becomes a resident of the Retirement Home on such date and who received Federal payments referred to in subsection (c) that were not considered for purposes of determining the resident's monthly fee for the United States Soldiers' and Airmen's Home shall have that fee increased by an amount that is equal to 12.5 percent of the monthly equivalent of those payments for the first year and 2.5 percent of the monthly equivalent of those payments each year thereafter until the percentage fixed pursuant to subsection (c) has been reached.

[(e) Application of Fees for New Residents.-A person who becomes a resident of the Retirement Home after the effective date specified in section 1541(a) shall be required to pay a monthly fee that is equal to 25 percent of Federal payments made to the resident, subject to such adjustments in the fee as may be made under subsection (c).]

(d) Application of Fees.-Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement Home shall be required to pay a monthly fee equal to-

(1) in the case of a resident who is receiving assisted-living services at the Retirement Home, 65 percent of all monthly income and monthly payments (including Federal payments) received by the resident; and

(2) in the case of a resident who is not receiving assisted-living services at the Retirement Home, 40 percent of all such monthly income and monthly payments.

* * * * * * *

DIVISION B-MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1991".

* * * * * * *

TITLE XXIII-AIR FORCE

* * * * * * *

[SEC. 2307. DESIGNATION OF INSTALLATION

[The Secretary of the Air Force shall provide that the installation which receives the last operational upgrade for the Minuteman II missile system shall be the installation from which the last Minuteman II missile is retired.]

* * * * * * *

TITLE XXIX-DEFENSE BASE CLOSURES AND REALIGNMENTS

PART A-DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

SEC. 2901. SHORT TITLE AND PURPOSE

(a) Short Title.-This part may be cited as the "Defense Base Closure and Realignment Act of 1990".

* * * * * * *

SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS

(a) * * *

* * * * * * *

(c) DOD Recommendations.-(1) * * *

* * * * * * *

(3) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been

previously considered or proposed for closure or realignment by the Department. However, in recommending military installations for closure or realignment, the Secretary (and the Commission in reviewing such recommendations) shall not-

(A) in calculating the economic impact of the closure or realignment of a military installation, consider advance economic planning undertaken by a community as a precaution against the possible closure or realignment of the military installation; or

(B) otherwise penalize communities that undertake such advance economic planning.

* * * * * * *

TITLE 32, UNITED STATES CODE

* * * * * * *

CHAPTER 1-ORGANIZATION

* * * * * * *

§108. Forfeiture of Federal benefits

[If, within a time to be fixed by the President, a State does not comply with or enforce a requirement of, or regulation prescribed under, this title its National Guard is barred, wholly or partly as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.]

If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.

* * * * * * *

CHAPTER 5-TRAINING

Sec.

501. Training generally.

* * * * * * *

508. Assistance to certain youth organizations.

* * * * * * *

§508. Assistance to certain youth organizations

(a) Members or units of the National Guard may provide the services described in subsection (b) to an organization described in subsection (c) in conjunction with training required under this chapter if-

(1) the provision of such services does not degrade the quality of the training or otherwise interfere with the ability of any unit to perform its military functions;

(2) the services provided are not commercially available or affected commercial entities have agreed in writing not to object to the provision of the services;

(3) members of the National Guard providing the services perform activities which enhance their skills in their military specialties; and

(4) such assistance does not materially increase the cost of training activities under this chapter.

(b) Services which may be provided under this section are the following:

(1) Ground transportation.

(2) Limited air transportation, but only in the case of the Special Olympics.

(3) Administrative support.

(4) Technical training.

(5) Emergency medical assistance.

(6) Communications.

(c) The organizations which may be assisted under this section are the following:

(1) The Boy Scouts of America.
(2) The Girl Scouts of America.
(3) The Boys and Girls Clubs of America.
(4) The YMCA.
(5) The YWCA.
(6) The Civil Air Patrol.
(7) The Special Olympics.
(8) Campfire Boys and Girls.
(9) The 4-H Club.
(10) The Police Athletic League.

* * * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

* * * * * * *

DIVISION A-DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I-PROCUREMENT

* * * * * * *

SUBTITLE H-ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE

SEC. 191. SHORT TITLE.

This subtitle may be cited as the "Armament Retooling and Manufacturing Support Act of 1992".

* * * * * * *

SEC. 193. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) Authority for Initiative.-During [fiscal years 1993 and 1994] fiscal years 1993 through 1995, the Secretary of the Army may carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereinafter in this subtitle referred to as the "ARMS Initiative").

* * * * * * *

TITLE III-OPERATION AND MAINTENANCE

* * * * * * *

SUBTITLE G-OTHER MATTERS

* * * * * * *

SEC. 378. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) In General.-The Secretary of Defense may, during fiscal years 1993 through [1995] 1996, conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate other such commemoration programs and activities of the Federal Government, State and local governments, and other persons.

(b) Use of Funds.-During fiscal years 1993 through [1995] 1996, funds appropriated to the Department of Defense for operation and maintenance of Defense Agencies shall be available to conduct the program referred to in subsection (a).

* * * * * * *

(g) Reimbursement for Certain Expenses.-The Secretary of Defense may provide for reimbursement of expenses incurred by a person to provide for the participation of the S.S. Jeremiah O'Brien in programs and activities to commemorate the 50th anniversary of World War II.

* * * * * * *

TITLE IV-MILITARY PERSONNEL AUTHORIZATIONS

* * * * * * *

SUBTITLE D-LIMITATIONS

[SEC. 431. REDUCTION IN NUMBER OF PERSONNEL CARRYING OUT RECRUITING ACTIVITIES.

[(a) Fiscal Year 1994 Limitation.-The number of members of the Armed Forces on September 30, 1994, who are serving on full-time active duty or full-time National Guard duty and who, as a primary duty, carry out personnel recruiting activities may not exceed the number equal to 90 percent of the number of members of the Armed Forces who, as a primary duty, carried out personnel recruiting activities while serving on full-time active duty or full-time National Guard duty on September 30, 1992.

[(b) Fiscal Year 1993 Implementation.-The Secretary of Defense shall ensure that the number of such personnel who, as a primary duty, carry out such activities is reduced appropriately during fiscal year 1993 to achieve the reduction required as of the end of fiscal year 1994.]

* * * * * * *

TITLE V-MILITARY PERSONNEL POLICY

* * * * * * *

SUBTITLE B-RESERVE COMPONENT MATTERS

SEC. 518. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

(a) Limitation.-The Secretary of Defense may not reduce the number of medical personnel in any reserve component below the number of such personnel in that reserve component on September 30, 1992, unless the Secretary certifies to Congress that the number of such personnel to be reduced in a particular military department is excess to the current and projected needs for personnel in the Selected Reserve of that military department. The assessment of current and projected personnel needs under this subsection shall be consistent with the wartime requirements for Selected Reserve personnel identified in the final report on the comprehensive study of the military medical care system prepared pursuant to section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 1071 note).

* * * * * * *

TITLE XIII-MATTERS RELATING TO ALLIES AND OTHER NATIONS

SUBTITLE A-BURDENSHARING

* * * * * * *

[SEC. 1302. OVERSEAS MILITARY END STRENGTH.

[(a) Reduction in United States Force Levels Abroad.-On and after September 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on September 30, 1992.

[(b) Exceptions.-(1) Subsection (a) shall not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

[(2) The President may waive the operation of subsection (a) if the President declares an emergency and immediately notifies Congress.]

* * * * * * *

DIVISION B-MILITARY CONSTRUCTION AUTHORIZATIONS

* * * * * * *

TITLE XXVIII-GENERAL PROVISIONS

* * * * * * *

SUBTITLE C-LAND TRANSACTIONS

SEC. 2834. LEASES OF PROPERTY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) * * *

(b) Lease Authorized with City or Port of Oakland.-(1) The Secretary of the Navy may lease to the City of Oakland, California, the City of Alameda, California, or the Port of Oakland, California (in this subsection referred to as the "[City] Cities" and the "Port", respectively), not more than 195 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(2) The lease authorized under paragraph (1) shall-

(A) be for a term of not more than 50 years; and

(B) shall contain the restriction that the [City] Cities or the Port (as the case may be) use the leased property in a manner consistent with Navy operations conducted at the Naval Supply Center.

(3)(A) As consideration for the lease of the real property under paragraph (1), the [City] Cities or the Port (as the case may be)-

(i) shall pay to the Navy the long-term fair market rental value of the leased property; and

(ii) may be required to furnish additional consideration as provided in subparagraph (B).

(B) The Secretary may require that the lease include a provision for the [City] Cities or the Port (as the case may be)-

(i) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(ii) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

* * * * * * *

SUBTITLE D-OTHER MATTERS

* * * * * * *

SEC. 2854. PROHIBITION ON COMMERCIAL DEVELOPMENT OF CALVERTON PINE BARRENS, CALVERTON, NEW YORK.

(a) Purpose.-It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

(b) Prohibition on Inconsistent Development.-The Secretary of the Navy shall not carry out or permit any development, commercial or residential, at the Calverton Pine Barrens that is inconsistent with the purpose specified in subsection (a).

[(a)] (c) [Prohibition.-] Reversionary Interest.-Notwithstanding any other provision of law, in the event that any parcel of the Calverton Pine Barrens is conveyed by a department or agency of the Federal Government, the instrument of conveyance shall provide for the reversion to the United States of the parcel, or any portion thereof, that is used or developed after such conveyance [for commercial purposes (as determined by the head of the appropriate department or agency of the Federal Government).] in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).

[(b)] (d) Definition.-(1) For the purpose of this section, the term "Calverton Pine Barrens" means the parcel of real property consisting of approximately 3,243 acres of real property located at the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(2) The exact acreage and legal description of the Calverton Pine Barrens shall be determined by a survey satisfactory to the Secretary of the Navy.

* * * * * * *

DIVISION C-DEPARTMENT OF ENERGY NATIONAL SECURITY

* * * * * * *

TITLE XXXIII-NATIONAL DEFENSE STOCKPILE

SUBTITLE A-MODERNIZATION PROGRAM

* * * * * * *

SEC. 3302. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

(a) * * *

* * * * * * *

(f) Special Limitation Regarding Chromium and Manganese Ferro.-The disposal of chromium ferro and manganese ferro under subsection (a) may not commence [before October 1, 1994.] until after the President certifies to Congress that-

(1) there is a reliable domestic source for the adequate and timely production of these materials; and

(2) such source can be called upon in times of a national emergency or a significant mobilization of the Armed Forces.

* * * * * * *

DIVISION D-DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

* * * * * * *

TITLE XLIV-PERSONNEL ADJUSTMENT, EDUCATION, AND TRAINING PROGRAMS

* * * * * * *

SUBTITLE B-GUARD AND RESERVE TRANSITION INITIATIVES

* * * * * * *

SEC. 4416. FORCE REDUCTION PERIOD RETIREMENTS.

(a) * * *

* * * * * * *

[(d) Annual Payment Period.-An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.]

(d) Annual Payment Period.-An annual payment granted to a member under this section shall be paid for the number of years specified by the Secretary concerned. Such number shall be one or more but not more than five, except that the entitlement to the annual payment shall terminate on the member's 60th birthday.

(e) Computation of Annual Payment.-(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

* * * * * * *

(3) In the case of a member who will attain 60 years of age during the 12-month period following the date on which an annual payment is due, the payment shall be paid on a prorated basis of one-twelfth of the annual payment for each full month between the date on which the payment is due and the date on which the member attains age 60.

* * * * * * *

(i) Coordination With Retired Pay.-A member who has received one or more annual payments under this section shall, upon entitlement to retired pay under chapter 67 of this title, have deducted from each payment of such retired pay 50 percent of such payment until the total amount deducted is equal to the total amount of payments received under this section.

* * * * * * *

SUBTITLE F-JOB TRAINING AND EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES

* * * * * * *

SEC. 4471. NOTICE TO CONTRACTORS AND EMPLOYEES UPON PROPOSED AND ACTUAL TERMINATION OR SUBSTANTIAL REDUCTION IN MAJOR DEFENSE PROGRAMS.

(a) Notice Requirement After Submission of President's Budget to Congress.-Each year, in conjunction with the preparation of the budget for the next fiscal year to be submitted to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall determine which major defense programs (if any) are proposed to be terminated or substantially reduced under the budget. [As soon as reasonably practicable] Not later than 30 days after the date on which the budget is submitted to Congress under such section, [and not more than 180 days after such date,] the Secretary, in accordance with regulations prescribed by the Secretary, shall provide notice of the proposed termination of, or substantial reduction in, each such program-

(1) * * *

* * * * * * *

(b) Notice Requirement After Enactment of Appropriations Act.-Each year, [as soon as reasonably practicable] not later than 30 days after the date of the enactment of an Act appropriating funds for the military functions of the Department of Defense, [and not more than 180 days after such date,] the Secretary of Defense, in accordance with regulations prescribed by the Secretary-

(1) * * *

* * * * * * *

(f) Withdrawal of Notification Upon Sufficient Funding for Program To Continue.-

(1) Notice to prime contractor.-If the Secretary of Defense provides a notification under subsection (a) for a fiscal year with respect to a major defense program and the Secretary subsequently determines, upon enactment of an Act appropriating funds for the military functions of the Department of Defense for that fiscal year that due to a sufficient level of funding for the program having been provided in that Act there will not be a termination of, or substantial reduction in, that program, then the Secretary shall

provide notice of withdrawal of the notification provided under subsection (a) to each prime contractor that received that notice under such subsection. Any such notice of withdrawal shall be provided [as soon as reasonably practicable] not later than 30 days after the date of the enactment of the appropriations Act concerned. In any such case, the Secretary shall at the same time provide general notice of such withdrawal by publication in the Federal Register.

(2) Notice to subcontractors.-As soon as reasonably practicable after the date on which the prime contractor for a major defense program receives notice under paragraph (1) of the withdrawal of a notification previously provided to the contractor under subsection (a), [and not more than 45 days after that date,] the prime contractor shall provide notice of such withdrawal to each person that is a first-tier subcontractor for the program under a contract in an amount not less than $500,000 for the program and shall require that each such subcontractor provide such notice to each subcontractor for the program under a contract in an amount not less than $100,000 at any tier.

* * * * * * *

SECTION 1002 OF THE DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

Sec. 1002. (a) * * *

* * * * * * *

(c)(1) No appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 235,700. The Secretary of Defense may exceed such permanent ceiling in any year by a number equal to not more than \1/2\ of 1 percent for the purpose of achieving sound management in the rotation of members of the Armed Forces of the United States to and from assignment to permanent duty ashore in European member nations of NATO, but only if the Secretary determines that the increase in such year is necessary for such purpose. In any fiscal year for which the permanent ceiling specified in the first sentence of this subsection is 235,700, the President may authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization at a level not to exceed 261,855 if the President determines that the national security interests of the United States require such authorization. Whenever the President exercises the authority provided under the preceding sentence, the President shall notify Congress of that determination and of the necessity for exceeding such permanent ceiling. For purposes of this paragraph, members of the Armed Forces of the United States assigned to permanent duty ashore in Iceland, Greenland, and the Azores are excluded in calculating the end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO.

* * * * * * *

SECTION 3721 OF TITLE 31, UNITED STATES CODE

§3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) * * *

* * * * * * *

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues[. However, if], except that in the case of a member of the uniformed services, the claim must be presented in writing within 1 year after the claim accrues. If a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years (or, in the case of a member of the uniformed services, within 1 year) after the cause

no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

* * * * * * *

TITLE 14, UNITED STATES CODE

* * * * * * *

PART I-REGULAR COAST GUARD

* * * * * * *

CHAPTER 3-COMPOSITION AND ORGANIZATION

* * * * * * *

§41. Grades and ratings

In the Coast Guard there shall be an admiral, vice admirals; rear admirals; rear admirals (lower half); captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; [chief warrant officers, W-4; chief warrant officers, W-3; chief warrant officers, W-2; cadets; warrant officers, W-1;] chief warrant officers; cadets; warrant officers; and enlisted members. Enlisted members shall be distributed in ratings established by the Secretary.

* * * * * * *

CHAPTER 11-PERSONNEL

OFFICERS

A. APPOINTMENTS

Sec.

* * * * * * *

§[212. Original appointment of permanent commissioned warrant officers

[(a) The President may appoint, by and with the advice and consent of the Senate, permanent commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the following categories:

[(1) warrant officers (W-1) of the Regular Coast Guard;

[(2) enlisted members of the Regular Coast Guard;

[(3) members of the Coast Guard Reserve; and

[(4) licensed officers of the United States merchant marine.

[(b) No person shall be appointed a commissioned warrant officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned warrant officer has been established under such regulations as the Secretary shall prescribe.

[(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Appointees

whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

§[213. Original appointment of permanent warrant officers (W-1)

[(a) The Secretary may appoint permanent warrant officers (W-1), in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the following categories:

[(1) enlisted members of the Regular Coast Guard;

[(2) members of the Coast Guard Reserve; and

[(3) licensed officers of the United States merchant marine.

[(b) No person shall be appointed a warrant officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a warrant officer has been established under such regulations as the Secretary shall prescribe.

[(c) Appointees under this section shall take precedence with other warrant officers in accordance with the dates of their appointments. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.]

§214. Original appointment of temporary officers

(a) * * *

[(b) The President may appoint temporary commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the warrant officers and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.

[(c) The Secretary may appoint temporary warrant officers (W-1) in the Regular Coast Guard, as the needs of the Coast Guard require, from among the enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.]

* * * * * * *

§215. Rank of warrant officers

(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.

* * * * * * *

§286a. Regular warrant officers: severance pay

(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under [section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)] section 580(a)(4)(A) of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

* * * * * * *

§334. Grade on retirement

(a) * * *

* * * * * * *

(b) Any warrant officer who is retired under any provision of [section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or] section 580, 1263, 1293, or 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W-4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

* * * * * * *

TITLE 37, UNITED STATES CODE

* * * * * * *

CHAPTER 3-BASIC PAY

* * * * * * *

§203. Rates

(a) * * *

* * * * * * *

(c)(1) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly cadet pay, or midshipman pay, at the rate of [$543.90] $558.04.

* * * * * * *

§209. Members of precommissioning programs

(a) Except when on active duty, a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10 is entitled to a subsistence allowance of [$100 a month] $150 a month beginning on the day he starts advanced training and ending upon the completion of his instruction under that section, but in no event shall any member receive such pay for more than 30 months. Subsistence allowance under this section may not be considered financial assistance requiring additional service within the meaning of the third sentence of section 6(d)(1) of the Military Selective Act (50 U.S.C App. 456(d)(1)).

* * * * * * *

CHAPTER 5-SPECIAL AND INCENTIVE PAYS

* * * * * * *

§301b. Special pay: aviation career officers extending period of active duty

(a) Bonus Authorized.-An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on [September 30, 1994] September 30, 1995, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

* * * * * * *

§302e. Special pay: nurse anesthetists

(a) Special Pay Authorized.-(1) An officer described in subsection (b)(1) who, during the period beginning on November 29, 1989, and ending on September 30, 1995, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed [$6,000] $15,000 for any 12-month period.

* * * * * * *

CHAPTER 7-ALLOWANCES

* * * * * * *

Sec.

403b. Cost-of-living allowance in the continental United States.

* * * * * * *

§401. Definitions

(a) * * *

(b) Other Definitions.-For purposes of subsection (a):

(1) The term "child" includes-

(A) a stepchild of the member (except that such term does not include a stepchild after the divorce of the member from the stepchild's parent by blood);

(B) an adopted child of the member, including a child placed in the home of the member by a [placement agency for the purpose of adoption] State licensed placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member; and

* * * * * * *

§403b. Cost-of-living allowance in the continental United States

(a) Members Eligible.-(1) A member of the uniformed services who is assigned to a high cost area in the continental United States is entitled to a cost-of-living allowance under this section.

(2) A member who is assigned to an unaccompanied tour of duty outside the continental United States is entitled to a cost-of-living allowance under this section if the dependents of the member reside in a high cost area in the continental United States.

(3) A member who is assigned to duty in the continental United States and whose dependents, due to the duty location or other circumstances, must reside in a high cost area in the continental United States, may be paid a cost-of-living allowance under this section based on the area where the dependents reside if it would be inequitable to base the allowance on the duty location of the member.

(b) Exceptions or Conditions.-(1) A member of the uniformed services who is otherwise entitled to a cost-of-living allowance under this section is not entitled to the allowance for the number of days during which travel is authorized while changing permanent duty stations.

(2) A member of a reserve component is not entitled to a cost-of-living allowance under this section unless the member is on active duty under a call or order that specifies a tour of active duty of 140 days or more or states that the active duty is in support of a contingency operation.

(c) Annual Allowance Threshold.-Based on the amount of funds available for a fiscal year to provide cost-of-living allowances under this section, the Secretary of Defense shall establish annually an allowance threshold to represent the percentage by which the cost of living of an area must exceed the national average cost of living in order to qualify the area as a high cost area for payment of the cost-of-living allowance to members of the uniformed services described in subsection (a). However, the allowance threshold for a fiscal year may not be less than 1.05 nor more than 1.08.

(d) Determination of National and Area Cost of Livings.-(1) The Secretary of Defense shall establish the cost-of-living allowance for a fiscal year by using the Consumer Price Index (as determined by the Bureau of Labor Statistics of the Department of Labor) or by using a comparable index developed in the private sector to determine a national average cost of living and the cost of living for various areas in the continental United States. To determine the cost of living of members of the uniformed services, the Secretary shall consider nonhousing costs (such as transportation, goods, and services) incurred by members of the uniformed services and average income tax paid by such members. The Secretary shall reduce the amounts determined to exclude cost savings attributable to military facilities (such as commissary, military exchange, and military health care benefits) and any military subsistence allowance.

(e) Allowance Factor.-The factor used in a particular high cost area to calculate the amount of the cost-of-living allowance for a fiscal year for members of the uniformed services described in subsection (a) shall be equal to the difference between-

(1) the cost of living for the high cost area divided by the national average cost of living; and

(2) the allowance threshold established under subsection (c) for that year.

(f) Amount of Allowance.-The cost-of-living allowance of a member of the uniformed services described in subsection (a) who is covered by a particular high cost area is equal to the product of the basic pay of the member and the allowance factor for that high cost area determined under subsection (e). The Secretary shall adjust the amount determined to maintain after-tax purchasing power of the allowance.

(g) Definitions.-In this section:

(1) The term "high cost area" means an area in the continental United States in which the cost of living, with respect to a particular fiscal year, exceeds the national average cost of living by a percentage greater than the allowance threshold established for that fiscal year under subsection (c).

(2) The term "continental United States" means the 48 contiguous States and the District of Columbia.

(3) The term "uniformed services" does not include the Coast Guard.

* * * * * * *

§411d. Travel and transportation allowances: transportation incident to personal emergencies for certain members and dependents

(a) * * *

(b)(1) In the case of a member stationed outside the continental United States and the dependents of such a member, transportation under this section may be provided [from the international airport nearest the location of the member and dependents at the time notification of the personal emergency is received or the international airport nearest] from the location of the member or dependents, at the time notification of the personal emergency is received, or the member's permanent duty station (and if the member's dependents reside at another overseas location and receive a station allowance, from that location)-

(A) to the international airport in the continental United States [closest to the international airport] closest to the location from which the member and his dependents departed; or

* * * * * * *

(4) Whenever transportation is provided under this section, return transportation may be provided [to the international airport from which the member or dependent departed or the international airport nearest the member's duty station.] to the location from which the member or dependent departed or the member's duty station.

* * * * * * *

§411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members

(a)(1) Under uniform regulations prescribed by the Secretaries concerned, transportation described in subsection (c) may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member [is necessary for] may contribute to the member's health and welfare.

(2) A member referred to in paragraph (1) is a member of the uniformed services who-

(A) is serving on active duty or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section);

[(B) is seriously ill or seriously injured; and]

(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and

* * * * * * *

(b)(1) * * *

* * * * * * *

(3) In this section, the term "health and welfare", with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.

* * * * * * *

CHAPTER 9-LEAVE

* * * * * * *

§501. Payments for unused accrued leave

(a) * * *

* * * * * * *

(d)[(1)] Payments for unused accrued leave under subsections (b) and (g), in the case of a member who dies while on active duty or in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made in accordance with section 2771 of title 10. In the case of a member who dies while on active duty, payment for unused accrued leave under subsections (b) and (g) shall be based upon the unused accrued leave the member carried forward into the leave year during which he died plus the unused leave that accrued to him during that leave year. [Except as provided in paragraph (2), the number of days upon which payment is based is subject to subsection (f).] The limitations contained in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) on the number of days of leave for which payment may be made shall not apply with respect to payments made under this subsection.

[(2) In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty in support of a contingency operation, the limitations in the second sentence of subsection (b)(3), subsection (f), and the second sentence of subsection (g) shall not apply with respect to a payment made under this subsection for leave accrued during the contingency operation.]

* * * * * * *

(f) The number of days upon which payment under subsection (b)[, (d),] or (f) is based may not exceed sixty, less the number of days for which payment has been previously made under such subsections after February 9, 1987. For the purposes of this subsection, the number of days upon which payment may be based shall be determined without regard to any break in service or change in status in the uniformed services.

* * * * * * *

SECTION 9081 OF THE ACT OF NOVEMBER 21, 1989

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

[Sec. 9081. No funds available to the Department of Defense during the current fiscal year and here after may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: Provided, That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.]

SECTION 5314 OF TITLE 5, UNITED STATES CODE

§5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.

Under Secretary of State for Political Affairs and Under Secretary of State for Economic and Agricultural Affairs and an Under Secretary of State for Coordinating Security Assistance Programs and Under Secretary of State for Management.

* * * * * * *

[Comptroller of the Department of Defense.]

Under Secretary of Defense (Comptroller).

* * * * * * *

SECTION 603 OF THE PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991

SEC. 603. LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA

(a) * * *

* * * * * * *

(c) Conveyance of Property.-(1) * * *

* * * * * * *

(3)(A) * * *

[(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph to participate in the written agreement referred to in paragraph (2).]

(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph-

(i) from initially participating in the written agreement referred to in paragraph (2); or

(ii) from agreeing at a later date to participate in the regional correctional facility to be constructed and operated on the parcel of land conveyed pursuant to this section either as a member of the governmental entity established pursuant to such written agreement or by contract with such governmental entity.

(d) Use of Property; Reversion.-(1)(A) A conveyance of land to Caroline County, Virginia, pursuant to this section shall be subject to the conditions that-

[(i) construction of a regional correctional facility pursuant to the agreement referred to in subsection (c)(2) commence not later than 24 months after the date of the enactment of this Act;]

(i) construction of a regional correctional facility pursuant to the agreement referred to in subsection (c)(2) commence not later than April 1, 1997;

(ii) such construction be completed and the operation of such facility commence not later than [five years after such date] April 1, 2002; and

* * * * * * *

STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT

* * * * * * *

FINDINGS AND PURPOSE

Sec. 2. (a) * * *

* * * * * * *

(c) In providing for the National Defense Stockpile under this Act, Congress establishes the following principles:

(1) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

(2) [Before October 1, 1994, the quantities] The quantities of materials stockpiled under this Act should be sufficient to sustain the United States for a period of not less than three years during a national emergency situation that would necessitate total mobilization of the economy of the United States for a sustained conventional global war of indefinite duration.

[(3) On and after October 1, 1994, the quantities of materials stockpiled under this Act should be sufficient to meet the needs of the United States during a period of a national emergency that would necessitate an expansion of the Armed Forces together with a significant mobilization of the economy of the United States under planning guidance issued by the Secretary of Defense.]

* * * * * * *

BIENNIAL REPORT ON STOCKPILE REQUIREMENTS

Sec. 14. (a) * * *

(b) Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary. [Before October 1, 1994, such assumptions] Such assumptions shall be based upon the total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years. [On and after October 1, 1994, such assumptions shall be based on an assumed national emergency involving military conflict that necessitates an expansion of the Armed Forces together with a significant mobilization of the economy of the United States.] Assumptions to be set forth include assumptions relating to each of the following:

(1) Length and intensity of the assumed emergency.

* * * * * * *

THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

* * * * * * *

TITLE II-DISASTER PREPAREDNESS ASSISTANCE

* * * * * * *

DISASTER WARNINGS

Sec. 202. (a) * * *

* * * * * * *

(c) The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to [section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)),] section 611(c) of this Act or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

* * * * * * *

TITLE VI-FEDERAL CIVIL DEFENSE

SEC. 601. DECLARATION OF POLICY.

The purpose of this title is to provide a system of civil defense for the protection of life and property in the United States from hazards and to vest responsibility for civil defense jointly in the Federal Government and the several States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the several States and their political subdivisions for civil defense purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance and shall provide necessary assistance as authorized in this title.

SEC. 602. DEFINITIONS.

In this title:

(1) The term "hazard" means an emergency or disaster resulting from-

(A) a natural disaster; or

(B) an accidental or man-caused event, including a civil disturbance and an attack-related disaster.

(2) The term "attack-related disaster" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or nuclear, radiological, chemical, bacteriological, or biological means or other weapons or processes.

(3) The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

(4) The term "civil defense" means all those activities and measures designed or undertaken to minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term shall include the following:

(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of civil population).

(B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

(C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

(5) The term "organizational equipment" means equipment determined by the Director to be necessary to a civil defense organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of the civil defense plans.

(6) The term "materials" includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for civil defense.

(7) The term "facilities", except as otherwise provided in this title, includes buildings, shelters, utilities, and land.

(8) The term "Director" means the Director of the Federal Emergency Management Agency.

(9) The term "neighboring countries" includes Canada and Mexico.

(10) The term "State" includes interstate civil defense authorities established under section 611(g).

SEC. 603. ADMINISTRATION OF TITLE.

This title shall be carried out by the Director of the Federal Emergency Management Agency.

SUBTITLE A-POWERS AND DUTIES

SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.

The Director is authorized, in order to carry out the policy described in section 601 to perform the following functions:

(a) Prepare national plans and programs for the civil defense of the United States, making such use of plans and programs previously initiated by the National Security Resources Board as is feasible; sponsor and direct such plans and programs; and request such reports on State plans and operations for civil defense as may be necessary to keep the President, Congress, and the several States advised of the status of civil defense in the United States.

(b) Delegate, with the approval of the President, to the several departments and agencies of the Federal Government appropriate civil defense responsibilities and review and coordinate the civil defense activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(c) Make appropriate provision for necessary civil defense communications and for dissemination of warnings to the civilian population of a hazard.

(d) Study and develop civil defense measures designed to afford adequate protection of life and property, including research and studies as to the best methods of treating the effects of hazards, developing shelter designs and materials for protective covering or construction, and developing equipment or facilities and effecting the standardization thereof to meet civil defense requirements.

(e) Conduct or arrange, by contract or otherwise, for training programs for the instruction of civil defense officials and other persons in the organization, operation, and techniques of civil defense; conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and provide instructors and training aids as deemed necessary. The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed \1/2\ of the total cost of such expenses. Not more than one national civil defense college and three civil defense technical training schools shall be established under the authority of this subsection. The Director is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

(f) Publicly disseminate appropriate civil defense information by all appropriate means.

(g) Assist and encourage the States to negotiate and enter into interstate civil defense compacts; review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity therein and consistency with the national civil defense plans and programs; assist and coordinate the activities thereunder; and aid and assist in encouraging reciprocal civil defense legislation by the States which will permit the furnishing of mutual aid for civil defense purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard. A copy of each such civil defense compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress shall be granted to each such compact, upon the expiration of the first period of 60 calendar days of continuous session of the Congress following the date on which the compact is transmitted to it; but only if, between the date of transmittal and expiration of such 60-day period, there has not been passed a concurrent resolution stating in substance that the Congress does not approve the compact. Nothing in this subsection shall be construed as preventing Congress from withdrawing at any time its consent to any such compact.

(h) Procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for civil defense, with the right to take immediate possession thereof. Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this title, prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes (40 U.S.C. 255). The Director shall report not less often than quarterly to the Congress all property acquisitions made pursuant to this subsection. The Director is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized law. The Director is authorized to procure and maintain under this subsection radiological instruments and detection devices,

protective masks, and gas detection kits, and distribute the same by loan or grant to the States for civil defense purposes, under such terms and conditions as the Director shall prescribe.

(i) Make financial contributions, on the basis of programs or projects approved by the Director, to the States for civil defense purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities. No contributions shall be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local civil defense workers. The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws. Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Director, after consultation with the Secretary of Defense) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States. The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate same to other States under the formula described in the preceding sentence. The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection. The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State civil defense programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (1) is intended for use, in whole or in part, for any purpose other than civil defense, and (2) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding sentences of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director necessary for the use of such facility for civil defense purposes. The Director shall report not less often than annually to Congress all contributions made pursuant to this subsection. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a-276a-5)), and every such employee shall receive compensation at a rate not less than one and \1/2\ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

(j) Arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for civil defense purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be covered into the Treasury as miscellaneous receipts.

SEC. 612. MUTUAL AID PACTS BETWEEN SEVERAL STATES AND NEIGHBORING COUNTRIES.

The Director shall give all practicable assistance to States in arranging, through the Department of State, mutual civil defense aid between the States and neighboring countries.

SEC. 613. IDENTITY INSIGNIA.

The Director may prescribe insignia, arm bands, and other distinctive articles (including designs previously covered under Letters Patent which were assigned to the United States and held by the Office of Civilian Defense created by Executive Order Numbered 8757 issued May 20, 1941) which may be manufactured for or possessed or worn by persons engaged in civil defense activities pursuant to rules and regulations for the manufacture, possession, or wearing thereof established by the Director. The manufacture, possession, or wearing of any such insignia, arm band, or other distinctive article otherwise than in accordance with such rules and regulations shall be unlawful and shall subject such person to a fine of not more than $1,000 or imprisonment of not more than one year, or both.

SEC. 614. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

(a) General Authority.-To further assist in carrying out the purposes of this title, the Director may make financial contributions to the States (including interstate civil defense authorities established pursuant to section 611(g)) for necessary and essential State and local civil defense personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the national plan for civil defense approved by the Director) for the civil defense of the States. The financial contributions to the States under this section shall not exceed \1/2\ of the total cost of such necessary and essential State and local civil defense personnel and administrative expenses.

(b) Plan Requirements.-Plans submitted under this section shall-

(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;

(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

(3) provide for the development of State and local civil defense operational plans, pursuant to standards approved by the Director;

(4) provide for the employment of a full-time civil defense director, or deputy director, by the State;

(5) provide that the State shall make such reports in such form and content as the Director may require;

(6) make available to duly authorized representatives of the Director and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.

(c) Terms and Conditions.-The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.

(d) Application of Other Provisions.-In carrying out this section, the provisions of section 611(g) and 621(h) shall apply.

(e) Allocation of Funds.-For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated hereunder, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the target and support areas and the areas which may be affected by hazards with respect to the development of the total civil defense readiness of the Nation, (2) the relative state of development of civil defense readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not utilized by a State in a plan submitted hereunder. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth herein.

(f) Submission of Plan.-In the event a State fails to submit a plan for approval as required by this section within 60 days after the Director notifies the States of the allocations hereunder, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director will best assure the adequate development of the civil defense capability of the Nation.

(g) Annual Reports.-The Director shall report annually to the Congress all contributions made pursuant to this section.

SEC. 615. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS.

Notwithstanding any other provision of this title, funds appropriated to carry out this title may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title for such purpose.

SEC. 616. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.

Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to

carry out this section shall authorize the use of civil defense personnel, materials, and facilities supported in whole or in part through contributions under this title for civil defense activities and measures related to hazards.

SUBTITLE B-GENERAL PROVISIONS

SEC. 621. ADMINISTRATIVE AUTHORITY.

For the purpose of carrying out the powers and duties assigned to the Director under this title, the Director may exercise the following administrative authorities:

(a) Employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, and to fix the compensation of such personnel in accordance with subchapter III of chapter 51 and chapter 53 of title 5, United States Code.

(b) Employ not more than 100 such part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of this title. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed $50 for each day of service, as determined by the Director.

(c) Utilize the services of Federal agencies and, with the consent of any State or local government, accept and utilize the services of State and local civil agencies; establish and utilize such regional and other offices as may be necessary; utilize such voluntary and uncompensated services by individuals or organizations as may from time to time be needed; and authorize the States to establish and organize such individuals and organizations into units to be known collectively as the United States Civil Defense Corps. The members of such corps shall not be deemed by reason of such membership to be appointees or employees of the United States.

(d) Notwithstanding any other provision of law, accept gifts of supplies, equipment, and facilities and utilize or distribute such gifts for civil defense purposes in accordance with the provisions of this title.

(e) Reimburse any Federal agency for any of its expenditures or for compensation of its personnel and utilization or consumption of its materials and facilities under this title to the extent funds are available.

(f) Purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

(g) Prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.

(h) When, after reasonable notice and opportunity for hearing to the State or other person, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved civil defense plans, programs, or projects, notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure. Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder. As used in this subsection, the term "person" means the political subdivision of any State or combination or group thereof, any interstate civil defense authority established pursuant to subsection 611(g), or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

SEC. 622. EXEMPTION FROM CERTAIN PROHIBITIONS.

The authority granted in subsections (b) and (c) of section 621 shall be exercised in accordance with regulations of the President, who may also provide by regulation for the exemption of persons employed or whose services are utilized under the authority of such subsections from the operation of sections 203, 205, 207, 208, and 209 of title 18 of the United States Code.

SEC. 623. SECURITY REGULATIONS.

(a) Establishment.-The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

(b) Limitations on Employee Access to Information.-No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

(c) National Security Positions.-No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director for any other reason shall deem it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director for evaluation in writing. Thereafter the Director may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director for action.

(d) Employee Oaths.-Each Federal employee of the Federal Emergency Management Agency, except the subjects of the United Kingdom and the Dominion of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for civil defense shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

> "I, -----, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.
>
> "And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of XXXXXXX (name of civil defense organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

After appointment and qualification for office, the director of civil defense of any State, and any subordinate civil defense officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18, United States Code.

SEC. 624. UTILIZATION OF EXISTING FACILITIES.

In performing duties under this title, the Director shall-

(1) cooperate with the various departments and agencies of the Federal Government;

(2) utilize, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

(3) refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

SEC. 625. ANNUAL REPORT TO CONGRESS.

The Director shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the Director shall deem appropriate.

SEC. 626. APPLICABILITY OF TITLE.

The provisions of this title shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

SEC. 627. AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Bureau of the Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within thirty days after such allocation or transfer.

SEC. 628. ATOMIC ENERGY ACT OF 1946.

Nothing in this title shall be construed to amend or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 629. FEDERAL BUREAU OF INVESTIGATION.

Nothing in this title shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

SEC. 630. SEPARABILITY.

If any provision of this title or the application of such provision to any person or circumstances shall be held invalid, the remainder of the title, and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 631. APPLICABILITY OF REORGANIZATION PLAN NUMBERED 1.

The applicability of Reorganization Plan Numbered 1 of 1958 (23 F.R. 4991) shall extend to any amendment of this title except as otherwise expressly provided in such amendment.

TITLE [VI] VII-MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

Sec. [601.] 701. (a)(1) The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.

* * * * * * *

TECHNICAL AMENDMENTS

Sec. [602.] 702. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii)) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as declared by the President pursuant to the Disaster Relief Act of 1974:".

* * * * * * *

REPEAL OF EXISTING LAW

Sec. [603.] 703. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

Sec. [604.] 704. Funds heretofore appropriated and available under Public Laws 91-606, as amended, and 92-385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

FEDERAL CIVIL DEFENSE ACT OF 1950

[AN ACT To authorize a Federal civil defense program, and for other purposes.

[Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Civil Defense Act of 1950".

[TABLE OF CONTENTS

[Sec. 413. Applicability of Reorganization Plan Numbered 1.

[SEC. 2. DECLARATION OF POLICY.

[The purpose of this Act is to provide a system of civil defense for the protection of life and property in the United States from hazards and to vest responsibility for civil defense jointly in the Federal Government and the several States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the several States and their political subdivisions for civil defense purposes can be effectively utilized to provide relief and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance and shall provide necessary assistance as authorized in this Act.

[SEC. 3. DEFINITIONS.

[As used in this Act-

[(a) The term "hazard" means an emergency or disaster resulting from-

[(1) a natural disaster; or

[(2) an accidental or man-caused event, including a civil disturbance and an attack-related disaster.

[(b) The term "attack-related disaster" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or nuclear, radiological, chemical, bacteriological, or biological means or other weapons or processes.

[(c) The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

[(d) The term "civil defense" means all those activities and measures designed or undertaken to minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term shall include the following:

[(1) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of civil population).

[(2) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

[(3) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately es•sential emergency repair or restoration of damaged vital •facilities).

[(e) The term "organizational equipment" means equipment determined by the Administrator to be (1) necessary to a civil defense organization, as distinguished from personal equipment, and (2) of such a type or nature as to require it to be financed in whole or in part by the Federal Government. It shall not be construed to include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of the civil defense plans.

[(f) The word "materials" shall include raw materials, supplies, medicines, equipment, component parts and technicals information and processes necessary for civil defense.

[(g) The word "facilities", except as otherwise provided in this Act, shall include buildings, shelters, utilities, and land.

[(h) The term "United States" or "States" shall include the several States, the District of Columbia, the Territories, and the possessions of the United States.

[(i) The term "neighboring countries" shall include Canada and Mexico.

[TITLE I-ORGANIZATION

[SEC. 101. FEDERAL CIVIL DEFENSE ADMINISTRATION.

[(a) There is hereby established in the executive branch of the Government a Federal Civil Defense Administration (hereinafter referred to as the "Administration") at the head of which shall be a Federal Civil Defense Administrator appointed from civilian life by the President, by and with the advice and consent of the Senate. The Federal Civil Defense Administrator (hereinafter referred to as the "Administrator") shall receive compensation at the rate of $17,500 per year.

[(b) There shall be in the Administration a Deputy Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate of $16,000 per year. The Deputy Administrator shall perform such functions as the Administrator shall prescribe and shall act for, and exercise the powers and perform the duties of, the Administrator during his absence or disability.

[(c) The Administrator shall perform his functions subject to the direction and control of the President.

[SEC. 102. CIVIL DEFENSE ADVISORY COUNCIL.

[(a) There is hereby created a Civil Defense Advisory Council, hereinafter referred to as the Council, which shall advise and consult with the Administrator with respect to general or basic policy matters relating to civil defense. The Council shall consist of the Administrator, who shall be chairman, and twelve additional members to be appointed by the President, of whom three members shall be representative of the State governments, three members shall be representative of the political subdivisions of the States and the remaining members shall be selected among the citizens of the United States of broad and varied experience in matters affecting the public interest, other than officers and employees of the United States (including any department or agency of the United States) who, as such, regularly receive compensation for current services. The following organizations shall be invited to establish panels of names for the members representative of the States and the political subdivisions thereof:

[The Council of State Governments.

[The Governor's Conference.

[The American Municipal Association.

[The United States Conference of Mayors.

[The representatives of the States and the political subdivisions thereof appointed by the President shall be selected from the panels established by the above-mentioned organizations. Not more than a majority of two of the members shall be appointed to the Council from the same political party. Each member shall hold office for a term of three years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this Act shall expire, as designated by the President at the time of appointment, four at the end of one year, four at the end of two years and four at the end of three years, after the date of the enactment of this Act. The Council shall meet at least once in each calendar year and at such other times as the Administrator shall determine that its advice and counsel will be of assistance to the program.

[(b) The Administrator may appoint such other advisory committees as are deemed necessary.

[(c) The members of the Council and the members of any other advisory committees, other than the Administrator, may be compensated at rates not in excess of those prescribed in section 401(b) of this Act.

[TITLE II-POWERS AND DUTIES

[SEC. 201. DETAILED FUNCTIONS OF ADMINISTRATION.

[The Administrator is authorized, in order to carry out the above-mentioned purposes, to-

[(a) prepare national plans and programs for the civil defense of the United States, making such use of plans and programs previously initiated by the National Security Resources Board as is feasible; sponsor and direct such plans and programs; and request such reports on State plans and operations for civil defense as may be necessary to keep the President, the Congress and the several States advised of the status of civil defense in the United States;

[(b) delegate, with the approval of the President, to the several departments and agencies of the Federal Government appropriate civil defense responsibilities, and review and coordinate the civil

defense activities of the departments and agencies with each other and with the activities of the States and neighboring countries;

[(c) make appropriate provision for necessary civil defense communications and for dissemination of warnings to the civilian population of a hazard;

[(d) study and develop civil defense measures designed to afford adequate protection of life and property, including, but not limited to, research and studies as to the best methods of treating the effects of hazards; developing shelter designs and materials for protective covering or construction; and developing equipment or facilities and effecting the standardization thereof to meet civil defense requirements;

[(e) conduct or arrange, by contract or otherwise, for training programs for the instruction of civil defense officials and other persons in the organization, operation, and techniques of civil defense; conduct or operate schools or including the payment of travel expenses, in accordance with the Travel Expenses Act of 1949, as amended, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Administrator; and provide instructors and training aids as deemed necessary: Provided, That the terms prescribed by the Administrator for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses: Provided further, That not more than one national civil defense college and three civil defense technical training schools shall be established under the authority of this subsection: Provided further, That the Administrator is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by Act of Congress.

[(f) publicly disseminate appropriate civil defense information by all appropriate means;

[(g) assist and encourage the States to negotiate and enter into interstate civil defense compacts; review the terms and conditions of such proposed compacts in order to assist to the extent feasible in obtaining uniformity therein and consistency with the national civil defense plans and programs; assist and coordinate the activities thereunder; aid and assist in encouraging reciprocal civil defense legislation by the States which will permit the furnishing of mutual aid for civil defense purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard: Provided, That a copy of each such civil defense compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of the Congress shall be granted to each such compact, upon the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which the compact is transmitted to it; but only if, between the date of transmittal and expiration of such sixty-day period, there has not been passed a concurrent resolution stating in substance that the Congress does not approve the compact: Provided, That nothing in this subsection shall be construed as preventing Congress from withdrawing at any time its consent to any such compact;

[(h) procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for civil defense, with the right to take immediate possession thereof: Provided, That facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this Act, prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended (40 U.S.C. 255): Provided further, That the Administrator shall report not less often than quarterly to the Congress all property acquisitions made pursuant to this subsection: Provided further, That the Administrator is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by Act of Congress: Provided further, That the Administrator is authorized to procure and maintain under this subsection radiological instruments and detection devices, protective masks, and gas detection kits, and distribute the same by loan or grant to the States for civil defense purposes, under such terms and conditions as the Administrator shall prescribe.

[(i) make financial contributions, on the basis of programs or projects approved by the Administrator, to the States for civil defense purposes, including, but not limited to, the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Administrator shall prescribe, including, but not limited to, the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or

care or treatment to assure the uniformity, availability, and good condition of such materials or facilities: Provided, That no contributions shall be made for the procurement of land: Provided further, That retroactive financial contributions which were otherwise approvable, approved and made to the States prior to June 30, 1960, to carry out the purposes of this subsection are hereby ratified and affirmed: Provided further, That after June 30, 1964, no contribution shall be made for the purchase of personal equipment for State or local civil defense workers: Provided further, That the amounts authorized to be contributed by the Administrator to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws: Provided further, That financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Administrator for such facilities in each fiscal year and apportioning same among the States in the ratio which the urban population of the critical target areas (as determined by the Administrator, after consultation with the Secretary of Defense) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States: Provided further, That the amounts authorized to be contributed by the Administrator to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Administrator may reallocate same to other States on the formula outlined above: Provided further, That the value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share: Provided further, That the amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State civil defense programs or projects approved by the Administrator: Provided further, That the Administrator shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (1) is intended for use, in whole or in part, for any purpose other than civil defense and (2) is of such kind that upon completion it will, in his judgment, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost, except that (subject to the foregoing provisos of this subsection) he may make contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which he shall determine to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the prinicpal intended purpose thereof but which is, in his judgment necessary for the use of such facility for civil defense purposes: Provided, That the Adminsitrator shall report not less often than quarterly to the Congress all contributions made pursuant to this subsection: Provided further, That all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Administrator under the provisions of this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be. The Administrator shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provisio, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15 [5 U.S.C. App. I]), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

[(j) arrange for the sale or disposal of materials and facilities found by the Administrator to be unnecessary or unsuitable for civil defense purposes in the same manner as provided for excess property in the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], and any funds received as proceeds from the sale or other disposition of such materials and facilities shall be covered into the Treasury as miscellaneous receipts.

[SEC. 202. RELATION OF DEFENSE PRODUCTION ACT OF 1950 TO CIVIL DEFENSE.

[The terms "national defense" or "defense" as used in title II of the Defense Production Act of 1950 shall be construed to include "civil defense" as defined in this Act.

[SEC. 203. MUTUAL AID PACTS BETWEEN SEVERAL STATES AND NEIGHBORING COUNTRIES.

[The Administrator shall give all practicable assistance to States in arranging, through the Department of State, mutual civil defense aid between the States and neighboring countries.

[SEC. 204. IDENTITY INSIGNIA.

[The Administrator may prescribe insignia, arm bands, and other distinctive articles (including designs previously covered under Letters Patent which were assigned to the United States and held by the Office of Civilian Defense created by Executive Order Numbered 8757 issued May 20, 1941) which may be manufactured for or possessed or worn by persons engaged in civil defense activities pursuant to rules and regulations for the manufacture, possession, or wearing thereof established by the Administrator. The manufacture, possession, or wearing of any such insignia, arm band, or other distinctive article otherwise than in accordance with such rules and regulations shall be unlawful and shall subject such person to a fine of not more than $1,000 or imprisonment of not more than one year, or both.

[SEC. 205. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

[To further assist in carrying out the purposes of this Act, the Administrator is authorized to make financial contributions to the States (including interstate civil defense authorities established pursuant to section 201(g) of this Act) for necessary and essential State and local civil defense personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the national plan for civil defense approved by the Administrator) for the civil defense of the States: Provided, That the financial contributions to the States for the purposes of this section shall not exceed one-half of the total cost of such necessary and essential State and local civil defense personnel and administrative expenses.

[(a) Plans submitted under this section shall-

[(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them, and be administered or supervised by a single State agency;

[(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

[(3) provide for the development of State and local civil defense operational plans, pursuant to standards approved by the Administrator;

[(4) provide for the employment of a full-time civil defense director, or deputy director, by the State, and for such other methods of administration, including methods relating to the establishment and maintenance of personnel standards on the merit basis (except that the Administrator shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as the Administrator shall find to be necessary and proper for the operation of the plan;

[(5) provide that the State shall make such reports in such form and content as the Administrator may require;

[(6) make available to duly authorized representatives of the Administrator and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.

[(b) The Administrator shall establish such other terms and conditions as he may deem necessary and proper.

[(c) In carrying out the provisions of this section, the provisions of section 201(g) and 401(h) of this Act shall apply.

[(d) For each fiscal year concerned, the Administrator shall allocate to each State, in accordance with his regulations and the total sum appropriated hereunder, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States shall give due regard to (1) the criticality of the target and support areas and the areas which may be affected by hazards with respect to the development of the total civil defense readiness of the Nation, (2) the relative state of development of civil defense readiness of the State, (3) population, and (4) such other factors as the Administrator shall prescribe: Provided, That the Administrator may reallocate the excess of any allocation not utilized by a State in an approvable plan submitted hereunder: Provided further, That amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth herein.

[(e) In the event a State fails to submit an approval plan as required by this section within sixty days after the Administrator notifies the States of the allocations hereunder, the Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in his judgment will best assure the adequate development of the civil defense capability of the Nation.

[(f) The Administrator shall report annually to the Congress all contributions made pursuant to this section.

[(g) As used in this Act, the term "State" shall include interstate civil defense authorities established under section 201(g).

[SEC. 206. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS.

[Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.

[SEC. 207. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS.

[Funds made available to the States under this Act may be used by the States for the purposes of preparing for, and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of civil defense personnel, materials, and facilities supported in whole or in part through contributions under this Act for civil defense activities and measures related to hazards.

[TITLE III-EMERGENCY AUTHORITY

[SEC. 301. NATIONAL EMERGENCY FOR CIVIL DEFENSE PURPOSES.

[The provisions of this title shall be operative only during the existence of a state of civil defense emergency (referred to hereinafter in this title as "emergency"). The existence of such emergency may be proclaimed by the President or by concurrent resolution of the Congress if the President in such proclamation, or the Congress in such resolution, finds that an attack upon the United States has occurred or is anticipated and that the national safety therefore requires an invocation of the provisions of this title. Such emergency also shall exist with respect to any designated geographic area or areas of the United States when the President determines that any such attack has been made upon or is anticipated within such area or areas, and directs the Administrator to proceed pursuant to the provisions of this title with respect to such area or areas. Any such emergency shall terminate upon the proclamation of the termination thereof by the President, or the passage by the Congress of a concurrent resolution terminating such emergency.

[SEC. 302. UTILIZATION OF FEDERAL DEPARTMENTS AND AGENCIES.

[During the period of such emergency, under such terms and conditions as to donation, compensation, or return as may be prescribed, and solely for civil defense purposes, the President may direct, after taking into consideration the military requirements of the Department of Defense, any Federal department or agency to provide, and such departments and agencies are hereby authorized to provide-

[(a) their personnel, materials, and facilities to the Administrator for the aid of the States;

[(b) emergency shelter by construction or otherwise; and

[(c) on public or private lands, protective and other work essential for the preservation of life and property, for clearing debris and wreckage, and for making emergency repairs to, and temporary replacement of, communications, hospitals, utilities, transportation facilities, or public facilities of States or their political subdivisions damaged or destroyed by attack.

[SEC. 303. EMERGENCY POWERS.

[During the period of such emergency, the Administrator is authorized to-

[(a) exercise the authority contained in section 201(h) without regard to the limitation of any existing law, including the provisions of the Act of June 30, 1932, as amended (40 U.S.C. 278a), and section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), and section 3734 of the Revised Statutes, as amended (40 U.S.C. 259 and 267), and the Federal Property and Administrative Services Act of 1949, as amended;

[(b) sell, lease, lend, transfer, or deliver materials or perform services for civil defense purposes on such terms and conditions as the Administrator shall prescribe and without regard to the limitations of existing law: Provided, That any funds received from the sale or other disposition of materials or for services shall be deposited to the credit of appropriations currently available and made pursuant to this Act and shall be available for expenditure for the purposes of such appropriations;

[(c) coordinate and direct, for civil defense purposes, the relief activities of the various departments and agencies of the United States as provided in section 302 hereof;

[(d) reimburse any State, including any political subdivisions thereof, for the compensation paid to and the transportation, subsistence, and maintenance expenses of any employees while engaged in

rendering civil defense aid outside the State and to pay fair and reasonable compensation for the materials of the State government or any political subdivision utilized or consumed outside of the State, including any transportation costs, in accordance with rules and regulations prescribed by the Administrator. As used in this subsection, the term "employees" shall include full- or part-time paid, volunteer, auxiliary, and civil defense workers subject to the order or control of a State government or any political subdivision thereof, and such employees shall not be deemed by reason of such reimbursement to be employees or appointees of the United States;

[(e) provide financial assistance for the temporary relief or aid of any civilian injured or in want as the result of any attack; and

[(f) employ temporarily additional personnel without regard to the civil-service laws and to incur such obligations on behalf of the United States as may be required to meet the civil defense requirements of an attack or of an anticipated attack.

During the period of any such emergency, the Administrator shall transmit quarterly to the Congress a detailed report concerning all action taken pursuant to this section.

[SEC. 304. IMMUNITY FROM SUIT.

[The Federal Government shall not be liable for any damage to property or for any death or personal injury occurring directly or indirectly as a result of the exercise or performance of, or failure to exercise or perform, any function or duty, by any Federal agency or employee of the Government, in carrying out the provisions of this title during the period of such emergency. Nothing contained in this section shall affect the right of any person to receive any benefit or compensation to which he might otherwise be entitled under the Federal Employees' Compensation Act, as amended (5 U.S.C. 751), or any other Act of Congress providing for any pension or retirement.

[SEC. 305. WAIVER OF ADMINISTRATIVE PROCEDURE ACT.

[During the period of such emergency, the functions and duties exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237), except as to the requirements of section 3 thereof.

[SEC. 306. COMPENSATION FOR NONGOVERNMENTAL PROPERTY ACQUIRED.

[(a) Except in the case of property acquired pursuant to section 201(h) of this Act in conformity with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, or through judicial proceedings for condemnation, the Administrator shall promptly determine the amount of compensation to be paid for any property (other than that of the Federal Government or any department or agency thereof) or the use thereof acquired pursuant to this Act, but each such determination shall be made as of the time it is acquired in accordance with the provisions for just compensation in the fifth amendment to the Constitution of the United States. If the person entitled to receive the amount so determined by the Administrator as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, he shall be paid promptly 75 per centum of such amount and shall be entitled to recover from the United States, in an action brought in the Court of Claims, or, without regard to whether the amount involved exceeds $10,000, in any district court of the United States, within three years after the date of the Administrator's award, such additional amount, if any, which, when added to the amount so paid to him, shall be just compensation.

[(b) Whenever the Administrator determines that any real property acquired by him is no longer needed for the purposes of this Act, he shall, if the original owner desires the return of the property and pays to the Administrator the fair value thereof, return such property to such owner. In the event the Administrator and the original owner do not agree as to the fair value of such property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the Administrator, one by the original owner, and the third by the first two appraisers; the expenses of such determination shall be paid in equal shares by the Government and the original owner.

[(c) Whenever the need for the purposes of this Act of any personal property acquired under this Act shall terminate, the Administrator may dispose of such property on such terms and conditions as he shall deem appropriate, but to the extent feasible and practicable he shall give to the former owner of any property so disposed of an opportunity to reacquire it (1) at its then fair value as determined by the Administrator, or (2) if it is to be disposed of (otherwise than at a public sale of which he shall give reasonable notice) at less than such value, at the highest price any other person is willing to pay therefor: Provided, That this

opportunity to reacquire need not be given in the case of fungibles or items having a fair value of less than $1,000.

[SEC. 307. TERMINATION.

[The provisions of this title shall terminate on June 30, 1974, or on such earlier date as may be prescribed by concurrent resolution of the Congress.

[TITLE IV-GENERAL PROVISIONS

[SEC. 401. ADMINISTRATIVE AUTHORITY.

[For the purpose of carrying out his powers and duties under this Act, the Administrator is authorized to-

[(a) employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil-service laws, and to fix the compensation of such personnel in accordance with the Classification Act of 1949, as amended;

[(b) employ not more than one hundred such part-time or temporary advisory personnel (including not to exceed twenty-five subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of this Act. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed $50 for each day of service, as determined by the Administrator;

[(c) utilize the services of Federal agencies and, with the consent of any State or local government, accept and utilize the services of State and local civil agencies; establish and utilize such regional and other offices as may be necessary; utilize such voluntary and uncompensated services by individuals or organizations as may from time to time be needed; and authorize the States to establish and organize such individuals and organizations into units to be known collectively as the United States Civil Defense Corps: Provided, That the members of such corps shall not be deemed by reason of such membership to be appointees or employees of the United States;

[(d) notwithstanding any other provisions of law, accept gifts of supplies, equipment, and facilities; and utilize or distribute same for civil defense purposes in accordance with the provisions of this Act;

[(e) reimburse any Federal agency for any of its expenditures or for compensation of its personnel and utilization or consumption of its materials and facilities under this Act to the extent funds are available;

[(f) purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as he may deem necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended;

[(g) prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and, without being relieved of his responsibility therefore, perform any of the powers and duties vested in him through or with the aid of such officials of the Administration as he may designate; and

[(h) when, after reasonable notice and opportunity for hearing to the State, or other person, he finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this Act for approved civil defense plans, programs, or projects, notify such State or person that further payments will not be made to the State or person from appropriations under this Act (or from funds othewise available for the purposes of this Act for any approved plan, program, or project with respect to which there is such failure to comply) until the Adminstrator is satisfied that there will no longer be any such failure. Until he is so satisfied, the Administrator shall either withhold the payment of any financial contribution to such State or person, or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder: Provided, That person as used in this subsection, means the political subdivision of any State or combination or group thereof; or any interstate civil defense authority established pursuant to subsection 201(g); or any person, corporation, association, or other entity of any nature whatsoever, including but not limited to, instrumentalities of States and political subdivisions.

[SEC. 402. EXEMPTION FROM CERTAIN PROHIBITIONS.

[The authority granted in subsections 401 (b) and (c) shall be exercised in accordance with regulations of the President who may also provide by regulation for the exemption of persons employed or whose services are utilized under the authority of said substances from the operation of sections 281, 283, 284, 434, and 1914 of title 18 of the United States Code and section 190 of the Revised Statues (5 U.S.C. 99).

[SEC. 403. SECURITY REGULATIONS.

[(a) The Administrator shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as he deems necessary. No employee of the Administration shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Administrator. No such employee shall occupy any position determined by the Administrator to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Civil Service Commission and a report thereon shall have been evaluated in writing by the Administrator. In the event such full field investigation by the Civil Service Commission develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Administrator for any other reason shall deem it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Administrator for his evaluation in writing. Thereafter the Administrator may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Administrator for his action.

[(b) Each Federal employee of the Administration, except the subjects of the United Kingdom and the Dominion of Canada specified in section 401(b) of this Act, shall execute the loyalty oath or appointment affidavits prescribed by the Civil Service Commission. Each person other than a Federal employee who is appointed to serve in a State or local organization for civil defense shall before entering upon his duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

> ["I, -----, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.
>
> ["And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of the (name of civil defense organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

After appointment and qualification for office, the director of civil defense of any State, and any subordinate civil defense officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in 18 U.S.C. 1621.

[SEC. 404. TRANSFERS TO ADMINISTRATION.

[The functions, property, and personnel of the Federal Civil Defense Administration established by Executive Order Numbered 10186, issued December 1, 1950, are hereby transferred to the Administration established by this Act, and the President may transfer to the Administration such functions, property, and personnel of the National Security Resources Board concerned with civil defense activities as he deems necessary to carry out the purposes of this Act.

[SEC. 405. UTILIZATION OF EXISTING FACILITIES.

[In performing his duties, the Administrator shall (1) cooperate with the various departments and agencies of the Government; (2) utilize to the maximum extent the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and local political subdivisions thereof, and of other organizations and agencies; and (3) refrain from engaging in any form of

activity which would duplicate or parallel activity of any other Federal department or agency unless the Administrator, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this Act.

[SEC. 406. ANNUAL REPORT TO CONGRESS.

[The Administrator shall annually submit a written report to the President and the Congress covering expenditures, contributions, work, and accomplishments of the Administration, pursuant to this Act, accompanied by such recommendations as he shall deem appropriate.

[SEC. 407. APPLICABILITY OF ACT.

[The provisions of this Act shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

[SEC. 408. APPROPRIATIONS AND TRANSFERS OF FUNDS.

[There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act in the fiscal year ending September 30, 1977. No funds may be appropriated for any fiscal year beginning after September 30, 1977, for carrying out the purpose of this Act, unless such funds have been authorized for such purpose by legislation enacted after the date of enactment of the Department of Defense Appropriations Authorization Act, 1977. Funds may be available for the purposes of this Act may be allocated or transferred for any of the purposes of this Act, with the approval of the Bureau of the Budget, to any agency or government corporation designated to assist in carrying out this Act: Provided, That each such allocation or transfer shall be reported in full detail to the Congress within thirty days after such allocation or transfer.

[SEC. 409. RECONSTRUCTION FINANCE CORPORATION

[To aid in carrying out the purposes of this Act, the Administrator is authorized to certify to the Reconstruction Finance Corporation as to the necessity under its Civil Defense Program of purchasing securities or making a loan or loans (including participations therein and guarantees thereof) for the purpose of aiding in financing projects for civil defense purposes, and the Reconstruction Finance Corporation upon such certification by the Administrator is hereby authorized to purchase such securities or to make such loan or loans (including participations therein and guarantees thereof) with maturities not to exceed fifty years and on such terms and conditions as the Corporation may determine except that any such purchases of securities or loans may be made only to the extent that financing is not otherwise available on reasonable terms. The total amount of loans, purchases, participations, and guarantees, made pursuant to this section shall not exceed $250,000,000 outstanding at any one time. The total amount of investments, loans, purchases, and commitments authorized by law to be made by the Reconstruction Finance Corporation is hereby increased by such sum.

[SEC. 410. ATOMIC ENERGY ACT OF 1946.

[Nothing in this Act shall be construed to amend or modify the provisions of the Atomic Energy Act of 1946, as amended.

[SEC. 411. FEDERAL BUREAU OF INVESTIGATION.

[Nothing in this Act shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.

[SEC. 412. SEPARABILITY.

[If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act, and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[SEC. 413. APPLICABILITY OF REORGANIZATION PLAN NUMBERED 1.

[The applicability of Reorganization Plan Numbered 1 of 1958 (23 F.R. 4991) shall extend to any amendment of this Act except as otherwise expressly provided in such amendment.]

THIRD SUPPLEMENTAL APPROPRIATION ACT, 1951

AN ACT Making supplemental appropriations for the fiscal year ending June 30, 1951, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, to supply supplemental appropriations for the fiscal year ending June 30, 1951, and for other purposes, namely:

CHAPTER I

* * * * * * *

CHAPTER XI

* * * * * * *

CIVIL DEFENSE PROCUREMENT FUND

[For working capital for the "Civil defense procurement fund", which is hereby established for the purpose of financing the procurement, by the Administrator, of materials or organizational equipment for which financial contributions to the States are otherwise authorized to be made on a matching basis by subsection (i) of section 201 of the Federal Civil Defense Act of 1950, $5,000,000. Said fund shall be charged with the purchase price of said materials or equipment, and shall be paid therefor in advance, or by reimbursement, in equal amounts from (1) applicable appropriations and (2) funds provided by the States. Such materials or organizational equipment may be delivered to any State, and the Federal share of the purchase price of materials or organizational equipment so delivered shall be in lieu of equivalent financial contributions therefor.]

SECTION 813 OF THE AGRICULTURAL ACT OF 1970

DISASTER RESERVE

Sec. 813. (a) * * *

* * * * * * *

(d) The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands of the United States, (B) in connection with any major disaster or emergency determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (88 Stat. 143, as amended; 42 U.S.C. 5121), and (C) in connection with any emergency determined by the Secretary to warrant assistance under section 407 of the Agricultural Act of 1949 (63 Stat. 1055, as amended; 7 U.S.C. 1427), the Act of September 21, 1959 (73 Stat. 574, as amended; 7 U.S.C. 1427 note), or section 1105 of the Food and Agriculture Act of 1977; or (2) use of connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with [the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 22512297).] title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.

ADDITIONAL VIEWS

We joined a nearly unanimous committee to vote out H.R. 4301 because its provisions continue, appropriately, to reorient and downsize our military forces and infrastructure consistent with the post-Cold War environment within which they must be prepared to operate.

Despite the fact that the committee bill moves in the proper direction, we remain concerned that too little adjustment has been made in force structure, weapon system acquisition and doctrinal orientation to prepare our nation for the real challenges that remain in this century and those which will emerge in the next. We run the risk of spending limited budget dollars on excessive force structure and unnecessary major weapons purchases while diverting scarce national resources from more urgent and critical needs. History will not forgive us if we fail to seize the opportunity over the next few years for a dramatic realignment of our national security apparatus in accord with the new realities of our world, a realignment that will both allow

us to make other needed national investments as well as encourage other nations to reduce their military efforts.

NATIONAL SECURITY THROUGH PREVENTIVE ENGAGEMENT

We believe strongly that participation in U.N. peacekeeping, international efforts to dismantle and prevent the spread of weapons of mass destruction, and military-to-military contacts for the purpose of avoiding conflict are critical elements of our national security strategy. While some members view these efforts as raids on the defense budget, we believe that investments in initiatives that promise to reduce instability, reduce the military capabilities against which our forces must prepare to fight and which prepare and engage U.S. forces in peace and humanitarian operations, are tremendous investments in security. It would be penny-wise and pound-foolish to refuse to invest a small portion of the defense budget to help avoid or reduce the virulence of conflicts that would cost billions and lead to massive loss of life.

In this context, it is extremely important that the U.S. be prepared to engage in peacekeeping operations. We strongly support the Administration's proposal to create a fund within the Defense Department to finance U.S. participation in U.N. peacekeeping operations, with a $300 million downpayment this year. We disagree with the majority of the committee who voted their sense that none of these funds should be used to pay for U.N. peacekeeping assessments owed by the United States.

In another area, we are pleased that the committee is undertaking an initiative to deal with the proliferation of landmines, which has hit epidemic proportions: an estimated 65-110 million uncleared landmines litter the ground in 62 countries. Landmines kill and maim indiscriminately, contribute to regional instability, adversely impact a country's transition to democracy, hinder the development of an economic infrastructure, and hamper the delivery of humanitarian aid. In addition, each of our war-fighting Commanders-in-Chief is concerned about the ability of our forces to deal with mines identifying them as a significant threat to operations other than war, such as peacekeeping. Our forces need better technology for detection and removal of uncleared landmines. We support expansion of the humanitarian demining program and recommend an increase in research and development of technologies to detect, identify and remove mines.

All these areas have been challenged at one time or another as being non-defense expenditures. We believe to the contrary that they are essential to our defense. They can substantially reduce the budgetary requirements for more traditional war preparations. The programs supported by the committee use unique Defense Department assets to accomplish their purposes; funding through other budgetary accounts would be cumbersome and less effective.

BOTTOM-UP REVIEW

The Bottom-Up Review (BUR) attempt at an analysis of the post-Cold War world threat environment upon which to base defense decision-making provides only a limited guide, both for what it did not analyze and what it assumed within its analysis.

While the Bottom-up Review did usefully acknowledge the importance of peackeeping and other new missions, as well as the importance of reducing the defense budget and paying attention to our economic security, in our view it relies on debatable assumptions to retain too much Cold War force structure. As the Secretary of Defense noted, different assumptions lead to different results-in some cases dramatically different results.

The BUR assumes that we need to prepare to go on the offense in two nearly-simultaneous major regional contingencies without the aid of allies, one in the Persian Gulf region and the other on the Korean peninsula. But Secretary of Defense William Perry and then-Chairman of the Joint Chiefs of Staff General Colin Powell, along with numerous outside analysts, have acknowledged that such a scenario is unlikely.

Indeed, this "win-win" force planning criterion is a more stringent criterion than that embodied in the Bush administration "Base Force." The Bush administration, according to official correspondence from its Under Secretary of Defense for Policy, was content to plan forces capable of a "decisive offense in response to one crisis and * * * a credible defense against an aggressor in another region should a second crisis arise before the first crisis is concluded." By contrast, the BUR requires full-up offenses in two theaters nearly simultaneously, "swinging" between theaters only some high value air assets and perhaps some amphibious forces.

To meet the Bottom-Up Review requirement to fight two major regional contingencies at once, the Clinton administration plans increases in key elements of military capability. By the end of the decade, the U.S. plans to have more early-arriving ground combat capability for regional conflicts than it did at the time of Desert Storm, and an order of magnitude more capability for delivering precision-guided munitions from the air. Since the Persian Gulf War and Air Force has quadrupled the number of aircraft capable of delivering precision munitions, and the Navy is in the process of tripling the number of such aircraft on a typical carrier. All of these increases are occurring despite the general acknowledgement that the level of military threat in the world is now lower than it was in 1990.

Nevertheless, the Bottom-Up Review was not content to buy the forces needed to fight its unnecessarily stringent war-fighting criterion. For example, it programs extra aircraft carriers to be able to increase the amount of peacetime forward presence, a mission that even the Bottom-Up Review agrees can be conducted in alternative ways, either by augmented amphibious ready groups or by joint army-air force deployments.

Those who fear that we have reduced too much too soon, in what is the most shallow of the four military drawdowns since the end of World War II, focus too much on what we have cut from, rather than on what remains in, our military force.

BOTTOM-UP REVIEW SCENARIOS

In Southwest Asia, Iraq's armies are much reduced in size and proficiency compared to 1990, and they are increasingly offset by regional opponents and by our own military preparations in the region. Other armies in the region pose no greater threat and are unlikely to grow dramatically. Deterrence thus seems likely to succeed in keeping the peace in the Gulf. If this condition changed, a resurgent Iraq could be met with a smaller version of the coalition effort which undertook the campaign in Desert Storm.

On the Korean peninsula, unlike in Southwest Asia, indigenous allied forces are quite strong and, without the disadvantages of geography, would be well-positioned to conduct their own defense. The role of U.S. forces in any potential conflict there would be best suited for prompt and decisive intervention at the early stages by bringing force to bear from the air rather than planning for a sustained, combined-arms campaign with the continued introduction of U.S. ground troops over a course of weeks and months. In conjunction with the South Koreans, we ought to make small investments to assure victory in the defensive battle and thus be able to go on the offensive if and when we choose, rather than assuming our initial defense will fail and thus spending huge resources to be ready to respond to a bloody initial defeat with an urgent counteroffensive in the context even of a war in another theater.

Regional specialists agree that North Korean military preparations are unsustainable over the long haul-especially against the backdrop of the collapsing North Korean economy and dynamic economic growth in the South. The most plausible interpretation of the North's current negotiations over its nuclear program is an attempt by an isolated regime to secure its future in recognition that its military threat to the South is a declining asset. In this context, adroit diplomacy is more important than military means in resolving the situation. Whatever happens in the remaining years of this decade, war between North and South Korea is unlikely to figure as a major planning contingency into the next century, the time for which the Bottom-Up Review force is being prepared.

In Europe, non-U.S. NATO forces are nearly the size of Russia's, and the political geography of the continent has been revolutionized. The stability of the continent in this post-Cold War transition period has much more to do with political and economic efforts than military measures. In the worst case, a resurgent Russia bent on imperial gain in the near-abroad would face difficult economic times in isolation from Western Europe, with reduced military potential as a result. Russian military forces would take at least the rest of the decade to reorganize themselves into an offensive force and even then would remain a long distance from areas of vital strategic interest to the West.

In other parts of the world, a variety of factors give rise to the conclusion that substantial or even marginally greater U.S. force structure remains unnecessary to meet our needs and commitments. In some regions potential disputants face countervailing forces (e.g., India v. Pakistan), or have substantial capacity for individual self-defense within their region (e.g., Australia). In other regions where humanitarian or other U.S. interests would arise it would be inappropriate for the U.S. to contemplate acting unilaterally (e.g., western hemisphere, Africa) because of regional organizations that should provide leadership to meet emerging conditions of instability. Finally, we must acknowledge that not every crisis can demand the attention of U.S. military forces.

FORCE STRUCTURE

Despite this evidence, the committee voted its sense (26-23) that the Army end strength contemplated by the Department of Defense as a result of its Bottom-Up Review was insufficient to meet the threat environment. We disagree and, despite the fact that the sense-of-Congress language adopted by the committee would not change Army end strength, we feel compelled to raise several concerns against the adoption of this view.

First and as noted above, we believe that the BUR overstates the need for U.S. ground forces, particularly in a Korean scenario and generally in its overly stringent planning requirement to meet near-simultaneous major conflict scenarios in two regions without allied assistance, and without full integration of National Guard and Reserve forces. While there were special factors in play, it is worth noting that U.S. forces were so superior in the Desert Storm campaign as to suggest that normal Army planning factors are now extremely conservative as they apply to the sort of combined-arms expeditionary warfare that makes up the core of the Bottom-Up Review.

The ability to so successfully prosecute that war without fully engaging all ground troops in the region is the direct result of the application of superior intelligence and air power, as well as the integration of other advanced weapon systems and enhanced battlefield command, control, communications into combat operations. American military art has advanced to the point where overwhelming force (and thus low casualties) is not the product of numbers so much as the quality of our personnel and our military systems.

As a result, the increase in Army end strength called for by the committee would degrade our military strength and strain our ability to meet other important national security needs within the framework of probable resources available to national defense. The committee acknowledged this reality when it chose not to press to raise the defense top line, in recognition that spending on national security must co-exist within a budget framework that confronts other national requirements.

The BUR calls for the maintenance of a Navy based on twelve aircraft carriers. It acknowledges that only 8-10 carrier groups would be needed for war-fighting purposes under the BUR scenarios, but argues that operational tempo requirements for peacetime presence require an additional two carriers (one in reserve). We disagree and believe instead that the Navy should look carefully at possible alternatives that would lower the need for maintaining what appears to us to be expensive, excess capacity. New staffing patterns, a recognition that less frequent patrols may not degrade national interests, the use of other vessels to provide presence in many situations, and other operational changes in Navy patrolling can, within the terms of the BUR, create the presence needed to meet our national security needs. The end of the global confrontation with the Soviet Union and its world-wide capable fleet should cause us to re-evaluate doctrine that puts U.S. naval forces constantly on the edge of engagement with nations throughout the world.

We should also candidly acknowledge that our military is sized, equipped and supported by resources that far outweigh those of any foreseeable adversary. In fact, ignoring the substantial efforts of our allies, we alone spend more resources on our military forces than all of our potential adversaries combined. If we want to lead the community of nations away from conflict, we must lead by example and create a force that is suitable for defense and the support of multinational operations, while at the same time not so large or structured so as to create an impetus for other nations to expand forces in response to our example or our capabilities.

More narrowly, within the defense budget, expending valuable resources in pursuit of excessive force structure degrades our ability to undertake the research and development and to pursue the modernization and force enhancements that can increase our capabilities for conducting humanitarian and peacekeeping operations safely and maintain the possibility of decisive victory in main-force conflict, should our diplomatic and conflict prevention strategies break down and our forces be required to engage militarily.

INFRASTRUCTURE REDUCTION AND ECONOMIC CONVERSION

Related to force structure sizing is the issue of base infrastructure. It is essential that excess infrastructure be reduced in a coherent fashion. Much of the administration's plans for modernization rest on the savings associated with infrastructure reduction.

We note that the base closure process has not been easy and that many would argue that closures should be decelerated. We believe that the committee approach to fund the needed resources for base closure, environmental clean-up and restoration, and to aid communities that find themselves in transition is the

appropriate approach to this problem. As with "defense by other means" approaches discussed above, these are not funding raids on the defense budget. They represent integral parts of the effort to adjust defense programs to the needs of the new era and to implement the fourth element of the national security strategy posited in the BUR: to ensure that our national economic strength is enhanced. These economic adjustment provisions will ease the transition in communities affected by military downsizing and, by strengthening our economy, will pay back significant benefits to our overall national security.

Similarly, investments in dual-use technologies and making the Defense Department a world-class consumer of environmental services in meeting its clean-up responsibilities will also enhance our security by strengthening our economy.

DEFENSE INDUSTRIAL BASE

Related to conversion is the issue of our defense industrial base. This year the committee chose to purchase a new aircraft carrier, despite the fact that the Navy plans to decommission two existing aircraft carriers before their useful service life expires. We strongly questioned purchase of a new carrier this year, because we believe that in this era of scarce resource we should not prematurely retire useful equipment at great cost.

However, the case of CVN-76 funding has raised the issue of how best to address the maintenance of our defense industrial base, both plant and personnel. We will continue to face these issues with regard to every category of weapon system, including surface ships, submarines, aviation and space systems and armor. We hope that the DoD analysis of industrial base needs will come forward with a strong recommendation about how we can maintain core skills while relying upon our larger national industrial and technology base to meet those skills that are important but not unique to defense needs while protecting our scare resources.

We cannot, in the long run, continue to buy systems as expensive as aircraft carriers twice as quickly as we would if we bought them to replace ships in the fleet as they came to the end of their useful service life.

NUCLEAR WEAPONS

While important negotiations and initiatives, such as the Nunn-Lugar threat reduction efforts to dismantle the nuclear weapons of the former Soviet Union, have achieved important strides in reducing the numbers of nuclear weapons and the threat that these weapons pose to the world, including through accidental launch, we believe that more can be done to more quickly reduce the size of U.S. forces, through unilateral action if necessary. The 1995 Nuclear Non-Proliferation Treaty review conference provides additional reason for action to reduce nuclear weapons levels as quickly as possible, in line with the pledge of the nuclear weapon states to move in the direction of disarmament.

The Defense Department's nuclear policy review must not shy away from a determined effort to further reduce the role of nuclear weapons in our force consistent with the changed world strategic environment. Because the review was not complete in time for this authorization cycle, it awaits until next year for the committee to answer more fully the questions that remain concerning our nuclear weapons. The committee bill takes some steps in the right direction, but important savings can be achieved by making appropriate changes of doctrine in regard to the operations of nuclear systems, the purposes for which they would be used and the scale of forces necessary to meet these now dramatically reduced threats.

We are pleased that the committee voted to prohibit the backfit of D-5 missiles on Trident submarines equipped with the C-4 missile, fund fissile material disposition and reduce nuclear test site funding. In addition, we are pleased that national laboratory reform gave formal approval to expanded lab missions to pursue dual-use technologies and to contribute to our environmental and energy security needs and that the committee bill funds the labs consistent with these reforms. These are small steps and should be integrated into the larger mosaic that sets forth a dramatically new posture for the reduced role of nuclear weapons in the wake of the breakdown of the strategic conflict between the U.S. and the former Soviet Union.

PERSONNEL ISSUES

We disagree with the position taken by the committee on the world-wide deployability of personnel. We note that the services have expressed no difficulty in managing for their purposes the approximately 3,400 individuals in uniform who, for reasons of disability, are not world-wide deployable. Despite the committee position that the service secretaries may exercise almost complete discretion in determining to maintain

persons with such disabilities, we believe that it is a position that is rooted in an unnecessary concern about the negative impact of maintaining persons in the service who have such limitations, and it has at least in part some animus directed at persons who have tested HIV positive.

On another matter, who believe strongly that the extension of whistle-blower protection to victims of race and sex discrimination or sexual harassment who find themselves the victims of retribution for having raised these issues is an important step to protect and ensure equal opportunity in the services.

Ronald V. Dellums,
Sam Farr,
Elizabeth Furse,
Lane Evans,
Neil Abercrombie,
Pat Schroeder,
Marty Meehan.

ADDITIONAL VIEWS ON SECTION 534 REGARDING DISCHARGE OF MEMBERS WHO ARE PERMANENTLY NONWORLDWIDE ASSIGNABLE

We oppose Section 534, which requires members of the armed forces who are classified as permanently nonworldwide assignable due to medical conditions to be discharged within one year of this diagnosis. This provision is directly counter to current military policy. It also is discriminatory, punitive, and unnecessary.

The Armed Services Committee held a hearing on this issue on March 15th of this year. At that hearing, the deputy chiefs of staff for personnel from all four services testified that nondeployables are a small problem that they can readily handle through the authority currently available to them. The stated that servicemembers who are non-deployable due to permanent medical conditions comprise about two-tenths of one percent of the active force, and that a range of medical conditions place them in this category, including asthma, diabetes, heart disease, cancer, HIV-positive status, and other progressive diseases. Other factors also limit the assignability of servicemembers, including their degree of training and family situations such as dependents with special educational or medical needs.

Under current law, a servicemember is separated or retired when he or she is "unfit to perform the duties of his office, grade, rank or rating because of physical disability." Section 534 would separate servicemembers who are physically able to perform and who may be well on the road to recovery, or who may not even exhibit any signs of illness. Section 534 purports to ease the pressure on servicemembers who may have to deploy more frequently in the place of troops who are non-worldwide deployable. We believe that it would have the opposite effect: by removing trained personnel from the forces, it would create more holes to fill, potentially in critical positions.

Section 534 is an expanded version of legislation that was rejected during consideration of the FY94 defense authorization bill which sought to discharge only servicemembers who were HIV-positive. We believe that this version, even as amended to provide discretion to the Secretary, could be used to discriminate against servicemembers who are ready and able to perform their duties. It also could serve as a justification for limiting deployment of other classes of military personnel.

The constant them of every debate over equal opportunity in the services has been that anyone who is trained and fit should be able to serve. We believe Section 534 goes directly against that principle, and that it has no place in U.S. policy.

Jane Harman,
Elizabeth Furse,
Marty Meehan,
Lane Evans,
George J. Hochbrueckner,
Ronald V. Dellums,
Sam Farr,
Pat Schroeder,
Neil Abercrombie,
Frank McCloskey.

ADDITIONAL VIEWS OF MARILYN LLOYD

I have been a member of the House Armed Services Committee since 1982. During those twelve years, I have had the privilege of serving with some of the most dedicated men and women I have ever met. Those men and women include my fellow committee members as well as our staff.

Their contributions go beyond long hours of required research, writing, and debate. They honestly seek to provide the United States with the finest Armed Forces in the world while adhering to the current concerns of the American taxpayers. It is not an easy task, but year after year the committee has succeeded in sending well thoughtout legislation to the floor of the House of Representatives.

To my fellow Congressmen, past and present, and our staff, I thank you for your assistance during my tenure on the House Armed Services Committee. And I praise you for your leadership and service in keeping our defense strong and our nation secure.

Marilyn Lloyd.

ADDITIONAL VIEWS OF OWEN PICKETT

Mr. Chairman, Fiscal Year 1995 will mark the tenth straight year of real decline for the defense budget. The FY 1995 budget request of $252.2 billion in budget authority for the Department of Defense, in real terms, is 35 percent below FY 1985, the peak year for DoD budget authority since the Korean War.

As was made amply clear throughout the Armed Services Committee markup of the DoD Authorization Bill for FY 1995, the President's defense budget is insufficient to fully fund the force levels of the Bottom Up Review. Estimates of funding shortfalls range as high as $100 billion over five years.

At the same time that defense spending has been shrinking, more and more of the defense budget has been spent on non-defense items. The General Accounting Office reported in 1993 that from fiscal year 1990 through fiscal year 1993 the Department of Defense spent a minimum of $10.4 billion on non-defense items. A 1994 report of the Congressional Research Service indicates that the problem is worse than that reported by the GAO. The CRS study, which also analyzed defense expenditures for fiscal years 1990 to 1993, concluded that $28.3 billion was spent for non-defense activities. These non-defense activities include peacekeeping, environmental compliance, disaster relief, the World Cup USA, the World University games, the Goodwill games, the Summer Olympics, drug interdiction, medical research and the list goes on and on and on. At best these activities are peripheral to DoD's primary military activities.

Looking at FY 1994 defense appropriations and the FY 1995 defense budget request, the CRS identified another $24.3 billion in non-defense activities funded out of the defense budget. Hundreds of millions of dollars will be siphoned away from defense activities to fund domestic programs administered by the Departments of Labor and Commerce.

The objectives of these programs may be good, but they should not be funded out of the modernization, readiness and compensation accounts of the military services. This raid on the DoD coffers to fund domestic programs and foreign policy initiatives drains increasingly scarce defense resources for non-traditional, non-defense activities. The impact of sustained cuts in defense spending to offset the cost of domestic and foreign policy initiatives already threatens the ability of the military services to fulfill their primary mission, to defend the security of the United States. These non-defense initiatives may be useful, but they do not contribute to military capability. They, instead, starve the research and technology, procurement, and operations and maintenance and personnel accounts of the military services; four accounts critical for preserving the U.S. military's technological edge over the long term, and its readiness to fight effectively, if called upon, in the near term.

The work of both the General Accounting Office and the Congressional Research Service was hampered by the fact that neither the Defense Committees of Congress nor the Department of Defense accurately compile data on non-defense spending in the defense budget.

The American public believes that defense spending is going to support soldiers, sailors, Marines and airmen. It is important that our citizens understand the extent to which these limited and reduced resources are going elsewhere.

Owen Pickett.

ADDITIONAL VIEWS OF OWEN PICKETT

I view with concern the Committee's failure to provide adequate funding to support the rapid development of a cost-effective Navy theater-wide ballistic missile defense capability. With only $40 million allocated for Fiscal Year 1995, the Navy will not be able to conduct an important ballistic missile

target intercept from a ship at sea. This test would help answer many of the technical questions which detractors of this important program posed and allow the option for a near-term capability to be fielded.

With the existence of over 50 AEGIS Cruisers and Destroyers by 1999, with their existing launchers, radars, command and control, trained personnel and their inherent mobility and deployability, the Navy provides the most cost-effective Theater Missile Defense capability which the Nation could develop. To not invest the relatively small amount required to bring this near-term effort to fruition should be viewed as short-sighted and lacking of public stewardship.

The Lightweight Exo-Atmospheric Projectile technology is mature, with eight years of development and numerous hover tests and flight tests to prove the basic technology. The Navy and the Ballistic Missile Defense Organization have been integrating the LEAP technology with the Standard Missile and have conducted two successful flight tests from ships at sea, with two more tests scheduled for late this summer against ballistic missile targets. If successful, this would represent the only exo-atmospheric anti-theater ballistic missile capability in the world. With forces at risk overseas, we must develop this capability as quickly to provide a credible defense against ballistic missiles.

According to the Chief of Naval Operations, Admiral Boorda, an overall funding level of $85 million in Fiscal Year 1995 for Navy Upper Tier would support a goal of deploying a theater-wide ballistic missile defense capability in 1999. By underfunding sea-based systems, the Committee is neglecting an opportunity to provide our forces a near-term, cost effective, Ballistic Missile Defense capability. Hopefully, this situation will change as LEAP flight tests prove the maturity and lethality of sea-based Upper-Tier.

Owen Pickett.

ADDITIONAL VIEWS OF U.S. CONGRESSMAN CHET EDWARDS

While I was pleased to support final passage of the fiscal year 1995 Defense Authorization Act. I believe this measure continues to take our nation's defense into the necessary changes required to meet the ever changing world threat. This is not to say that I do not find concern in some of the bill's provisions. However, the committee did take into account the Administration's Bottom Up Review, which served as a useful basis for crafting the committee's product.

I again applaud our chairman for his thoroughness in holding hearings in a manner which allowed for the exploration of a number of key defense policy areas. The hearings were held in a compressed time frame, but did allow us to examine many important issues which are useful in determining defense needs and priorities for the upcoming year.

An area of particular concern for me is the overall budget figure allotted for defense in the next fiscal year. This budget marks the tenth consecutive year of declining defense budgets, of either not keeping pace with inflation or actually suffering a real cut in spending. I remain troubled by the continuing decline in defense spending, and whether this is too much and too soon. The dual simultaneous conflict scenario remains a key component of our defense posture, and I believe such a scenario must have our preparation in mind. The continuing draw-down in force structure and assets calls into question how long we can realistically meet a two conflict requirement.

Another part of the defense equation is the Roles and Missions Commission which is scheduled to soon convene for deliberations. If we are to continue scaling back our defense structure-and that appears certain-then we must avoid the costly and unnecessary duplication of assets and efforts. I look forward to this commission's findings so that we can reconfigure our defense forces to meet our future threats and to provide maximum use of our manpower and resources against future adversaries.

Quality-of-life issues remain one of my greatest priorities within the bill, and I am pleased to see a pay raise is provided for our personnel. If we are to retain the qualitative edge against all future adversaries, first-rate personnel must be recruited and retained for our military. A pay raise, especially for our enlisted personnel, is essential to attract and retain quality people. We must also be mindful of preserving quality living quarters and work places for our personnel. Suitable facilities where our people live, train, and work is important to our military effectiveness.

Another critical area we must remain mindful of relates to the difficulties facing our defense industry. We must move toward making a determination of whether programs should continue or face termination. With the defense budget steadily declining, at least into the foreseeable future, we can no longer afford defense procurement which delays decisions into the future rather than in the present. Programs will face a shrinking funding base if we continue to stretch out procurement decisions.

Our service branches must also pay closer attention to developing what their future priorities and needs will be. There is little margin for our services to request certain programs in their budget submissions, and then require later Congressional action to meet expected program deficiencies. These late breaking initiatives rarely allow for a full and complete airing of the program's merits and do little for properly crafting a comprehensive defense blueprint. I am hopeful our respective services can develop more detailed future defense requests for next year's consideration.

There are several programs which have experienced technical, managerial, or funding problems. The committee deferred action on many of these issues until the measure is under full House consideration. We cannot permit important defense needs to be jeopardized by deficiencies in a program's procurement, development, or management.

I will continue to urge caution with regard to the defense budget's bottom line. We must not allow our defense spending to enter into a free fall, and as a result find our military readiness and capabilities hampered. Military readiness is a critical component to our defense posture effectiveness, with training, maintenance, and equipment the most important issues.

There will likely be further refinement of this defense bill as the measure undergoes floor deliberation and the conference process. I find our committee product meets our national security objectives in the near term, and will continue taking us in the direction of effectively dealing with the changing world defense threats posed by our adversaries against our nation and our allies.

In the area of defense reinvestment, I look forward to learning more of how effective we have been in establishing programs to meet the changing industrial requirements from defense to civilian application. A proper method of determining which programs have been successful in aiding these transitions is important so that we can properly craft future reinvestment spending to the areas which prove most effective and efficient.

I also commend the dedication, hard work and professionalism of the committee staff for all their assistance in drafting this important measure. I look forward to their continuing efforts as we further refine the committee's work in the coming months.

I look forward to continuing work with my colleagues in finalizing a fiscal year 1995 defense authorization bill which meets our national security needs.

Chet Edwards.

ADDITIONAL AND DISSENTING VIEWS OF BOB STUMP

"The Bottom Up Review is an abstraction; the budget is reality."

I fully appreciate and respect the views of my colleagues in supporting the Committee's position on H.R. 4301. However, I cannot support the bill because I do not subscribe to its underlying philosophy and assumptions. I believe the funding available for national defense over the next five fiscal years will be insufficient to support the national military strategy, force levels, modernization, and readiness inherent in the Bottom Up Review.

Other factors will further dilute the core capabilities of our military services. These include the continued use of funds authorized and appropriated for DOD for purposes other than national defense and the expansion of our military services' responsibilities beyond the resources and force planning assumptions underlying the budget.

First, I will address the shortfalls in funding and the effect on our military services. Citing budget numbers and percentages can be a mind-numbing exercise. However, the budget cuts ultimately affect people, in and out of uniform, and our defense industrial base as well. The proposed DOD budget over the next five years is $93 billion less than President Bush had proposed over the same period of time. This is in addition to the two-thirds cut in procurement and the 20 percent cut in research and development the military services have sustained since the late 1980's.

The budget crunch continues to drive service-unique problems. The Army faces a major force structure-budget mismatch and is staring a 40 percent research and development cut in the fce. The General Accounting Office indicates the Navy's five year program is $20 billion under funded. And every day we read about a new bomber modernization plan for the Air Force and an accompanying new explanation of how the projected bomber force levels will or won't satisfy the requirements of the two major regional contingency capability inherent in the Bottom Up Review.

The promise from the Administration is that there will be a turn-around in the defense budget late in the decade and that funding needed to achieve force modernization will be available. Yet, every day new commitments are assumed by the federal government to fund domestic programs. Lacking an overwhelming,

direct threat, these other "priorities" will severely test the political will when it becomes necessary to commit the funds required to provide, train, and equip the military forces for the future.

In addition, I am concerned that our defense industrial base continues to be eviscerated while we await overdue industrial base assessments and studies, ignore the problem in hopes it will go away or hold out promise of salvation through the magic elixir of dual use technologies and the Technology Reinvestment Project.

Second, is the issue of continued, growing use of funds authorized and appropriated for national defense for other than national defense purposes. This amounts to billions-of-dollars each year that are counted as "defense spending," but in many cases end up being allocated to programs that make little or no contribution to the nation's defense. Taken individually, many of these programs have merit. However, collectively they are resources lost that could otherwise support military service modernization and readiness programs and sustain the industrial base.

Also of great concern to me is the apparent willingness of many to sign up the young men and women of our military services for humanitarian, peacekeeping, peacemaking, and other various roles all over the world that have very little to do with our vital national security interests. Quite frankly, at the current frenetic pace, our youngsters are being run-ragged and our logistics "lift" capabilities are being severely taxed. The very people who were so quick to counsel endless negotiating when our vital interests were threatened in the Persian Gulf, don't seem similarly constrained from calling for the use of force or thrusting our military into threatening environments in the third world. While well intentioned, these missions are not adequately budgeted for, detract from readiness, and drain the vitality of our forces.

In conclusion, when I consider whether this year's defense budget and the five year program are adequate, I have to make a judgment about risk-risk to our service people and risks to our vital national security interests. This is a judgment that each of us has to make based on his or her own experience and perspective of world events. Without knowing everything we would like to know, we have to make a judgment about the risk in the international security environment over the next ten years.

When I look at trends and events in North Korea, Bosnia, the Middle East, and China's unexplained double-digit growth rate in defense spending, I get concerned. When I see daily reports of technology relate to the production of weapons of mass destruction continuing to be proliferated around the world, I get concerned. The final judgment I make is that given the dangerous and uncertain world with which we are confronted, the budget levels we are projecting create and unacceptable level of risk. And I remain deeply concerned that the potential long term losers in the risk equation could be our young service men and women. This is a risk I am not willing to assume.

Bob Stump.

ADDITIONAL REMARKS BY CONGRESSMAN ROBERT K. DORNAN

It is with some hesitation that I find myself supporting the House Armed Services Committee work on the FY 1995 Defense Authorization Bill. While the committee, under the excellent leadership of its chairman and ranking minority member, took some very specific steps to maintain the future combat capability of this nation's armed forces, I fear that both the Administration and the Congress are still cutting defense "to far and too fast." Hopefully the positive steps taken by this committee can ensure that the military survives such budgetary constraints in the short term, until we restore the overall funding in the long term necessary to provide the United States with the troops, training, and technology required to deploy, fight, and win on the battlefields of the future.

First, I would like to commend the committee for three very positive steps taken on behalf of the troops who sacrifice so much in defense of our country. The committee rejected the short-sighted efforts of the current Administration which sought to again cut well deserved pay raises for our active duty military. For the second year in a row, the committee instead embraced the design of my bill, H.R. 1670, which was the first and only free standing legislation introduced to fully restore the military pay raise. The Committee also accepted the provisions of another bill, which I cosponsored, to correct the disparity in Cost of Living Adjustments (COLAs) between federal civilian retirees and military retirees. Finally, the committee accepted by amendment, refined by Personnel Subcommittee Chairman Skelton, which would require the discharge of permanently nonworldwide and noncombat assignable members of the military. Such action would reduce costs by retaining only those personnel who are worldwide and combat or combat support assignable, improve readiness by reducing assignment limitations, and provide fairness to those members (and their families) who are fully fit and must be therefore assigned overseas at an increased tempo.

In the area of training and maintaining our forces, the committee accepted my proposal for the testing of a deployable hydraulic test and repair facility for the United States Air Force and Air National Guard. This system, developed in my district in Orange County, California, and personally briefed to the commander of Air Combat Command, General Mile Loh, has the potential to greatly increase readiness and reduce maintenance cost for all Air Force aircraft. Currently, all hydraulic components must be sent to depots for test and repair. This new system, which is fully deployable, will allow the testing and minor repair of hydraulic components at the unit level. Since many components either test O.K. (as much as 30 percent for F-16 aircraft) or require only minor repair, such a new system would reduce cost by limiting those parts which would be transported to depots for repair and increase readiness by reducing the turnaround time of components to front line aircraft. Besides improving unit readiness and reducing unit cost, the deployable hydraulic test and repair facility would also assist depots by ensuring these facilities receive only damaged parts. Depots could then concentrate their time and resources on actual repair rather then costly and time consuming testing and sorting out.

The committee also accepted five specific proposals I made with regards to revolutionary technology designed to improve our long term military capability. One of the few negative lessons of Desert Storm was the problem of "friendly fire." This bill includes my recommendation to begin procurement and continue testing of a system known as BCIS (Battlefield Combat Identification System) designed to prevent such casualties. Also included is increased funding for sea-based ballistic missile defense using existing Aegis cruisers and destroyers, "Standard" air defense missiles, and the LEAP (Lightweight Exoatmospheric Projectile) interceptor. Such a near-term, inexpensive system would have direct application to the current threat of operations in the waters surrounding the Korean peninsula. The committee also provided funding for 36 additional OH-58D "Kiowa Warrior" helicopters. These advanced armed reconnaissance aircraft, supported by the Bottom-Up Review, are especially valuable for low intensity operations such as those conducted in Somalia. This bill also recognizes the value of real time television news broadcasts in world crisis areas and requests the evaluation by U.S. Special Operations Command of a tactical TV broadcast system known as STARS (Strategic Television Airmobile Reports-via-Satellite). Using a modified Navy P-3 "Orion" aircraft, STARS could provide the U.S. with an information age weapons system for use in areas such as Bosnia-Herzegovina. Finally, the committee accepted my proposal to fund a revolutionary new space launch system known as single stage to orbit or SSTO. This system would address both military and civilian space launch requirements.

While I do not believe that defense conversion is the answer to our drastically declining defense resources, I do believe some individual programs have great merit. The committee continued to fund my "troops to teachers" proposal designed to help assist those seeking employment after leaving military service while at the same time improving the quality of the teaching profession. The bill also includes funding for joint Department of Defense and Department of Justice initiatives designed to combat crime. Programs could include the use of existing high technology hardware at the Aerospace Corporation in Southern California which has already been utilized in the successful identification of a vehicle in a criminal case. We must ensure, however, that conversion programs have benefits for both the military and the civilian sector, such as a Technology Reinvestment Project proposal in my district which will develop an Autonomous Landing System for both military and civilian aircraft. Defense conversion must not become another excuse to fund new social spending programs through the Department of Defense.

While I support this bill, I urge caution regarding the future. The 1995 Pentagon budget represents the 10th consecutive year of decreased defense spending since 1985, the peak of the Ronald Reagan military buildup. In real terms, this defense budget is thirty-five percent smaller than in 1985. Field Manual 100-5, the bible for U.S Army operations, states, "The United States Army exists to support and defend the Constitution of the United States. It does that by deterring war, and if deterrence fails, by providing Army forces capable of achieving decisive victory as part of a joint team on the battlefield-anywhere in the world and under virtually any conditions." While I am confident that this bill provides the troops, training and technology necessary to perform such operations in the short term, I fear continued defense budget reductions will severely threaten such operations in the long term.

Robert K. Dornan.

ADDITIONAL VIEWS OF JAMES M. TALENT

With this defense budget, the administration is trying to have it both ways: On the one hand, the President wants to cut the defense budget to fund his domestic "investment" initiatives; on the other, he wants an armed

force of sufficient size and readiness to be able to execute a national military strategy that calls for the United States to fight and win two nearly-simultaneous major regional conflicts. The two MRC national military strategy did not originate with the Clinton defense and foreign policy team; it is the same philosophy that was the centerpiece of the Bush administration's defense and foreign policies. The difference between the two is that President Clinton wants our forces to be able to do everything they could under the Bush defense plan but with nearly $130 billion less.

President Clinton's defense plan is laden with contradictions and instances of the president trying to have it both ways. Earlier this year in hearings before the House Armed Services Committee, at least two of the service chiefs of staff testified that over the next five years they would need inflation-adjusted increases in their budgets to carry out their mission. But the deep cuts which have yet to be made under the Clinton defense plan will make it impossible to increase each service's budget. President Clinton also claims to want the best equipped, most ready force in the world. To get it in an era of shrinking defense budgets, he says he would rely on force enhancements and modernization; this would increase the lethality of each soldier so that the military could accomplish its mission with fewer soldiers. Yet his defense plan slashes spending for modernization programs. For example, the Army modernization budget for the next five years was slashed last year by 25 percent.

After ten straight years of real, inflation-adjusted cuts in the defense budget, it's time to put the debate over this year's authorization bill into context. Since fiscal 1986, the defense budget has been cut 32 percent in real terms. If President Clinton's five-year defense plan is enacted, defense spending in FY 1999 will have been cut by 41 percent since 1986. Domestic discretionary spending in these same years has increased by 36 percent in real, inflation-adjusted terms. Mandatory entitlement spending has increased 25 percent. H.R. 4301 not only continues this trend, it defies President Clinton's State of the Union message against cutting the defense budget beyond what he requested in his FY 1995 budget request.

Years of deep defense cuts are producing a force which is on the brink of going hollow-one which looks strong on paper but lacks the necessary manpower, training, and material readiness to accomplish its mission. Signs of trouble already are evident. Here are some examples:

For the first time in 10 years, less than 90 percent of the Marine Corps' equipment is ready to go to war.

Maintenance backlogs are a persistent and growing problem throughout the services: The Marines' backlog in some maintenance categories has gone from zero to $160 million in just two years; because of funding shortfalls, the Navy has a backlog of 150 aircraft and 250 aircraft engines in need of maintenance.

OPTEMPOs-the leading indicator of force training and readiness-are suffering. Last year, the U.S. Army in Europe had only 75 percent of its operations and maintenance requirements funded. As a result, tactical training was cut back by 12 percent in order to maintain base operations support.

Increased operational commitments are resulting in lengthy deployments of personnel in each of the services. Because of these deployments, Air Force pilots are not able to practice critical combat skills like low-flying and dropping bombs. In a GAO report a senior U.S. Air Force official in Europe compared that command's readiness to that of a "dull sword."

The Clinton administration's defense policies are under attack from all sides and from members of both parties. The celebrated Bottom-Up Review was supposed to be a comprehensive review of defense needs in the post-Cold War world; instead, it was a budget-driven exercise that almost no one outside the administration supports.

In report language adopted as part of the chairman's mark on the Military Forces and Personnel section of this bill, Chairman Ike Skelton has raised serious questions about the Clinton administration's plan for the Army. Under the Bottom-Up Review force, the Army will be reduced to 495,000 active-duty soldiers in 10 divisions. If a crisis breaks out, these divisions will be augmented by "enhanced" National Guard combat brigades. Chairman Skelton has correctly pointed out that the Bottom-Up Review plan for fighting two regional contingencies rests on a series of what he charitably calls highly-optimistic assumptions. In truth the force structure laid out in the Bottom-Up Review is completely inadequate to carry out the national military strategy even if the BUR were adequately funded, which it is not.

The administration's plan to reduce the Navy's carrier fleet to 11 active plus one reserve, for instance, will leave critical regions of the world without U.S. presence for months at a time. The plan to reduce the number of Air Force fighter wings to 13 active plus 7 reserve is the minimum necessary to fight in two regional conflicts nearly-simultaneously; the problem is no one believes the Air Force will be able to keep 20 airwings without significantly more money than is now called for in the president's five-year defense plan. This year, for example, the Air Force will not procure a single new tactical fighter aircraft. And General

John Michael Loh, Commander of the U.S. Air Force's Air Combat Command, has raised serious questions about the Air Force's ability to project decisive power with only 107 strategic bombers.

We are at a crossroads with this budget. Congress should either abandon the two MRC strategy as financially insupportable or it should reject this budget and increase defense funding enough to buy a force structure that can win in two major wars at nearly the same time with a minimum number of American casualties. This bill is an opportunity to debate these issues before the whole House. That debate is long overdue. Unless Congress moves clearly in one direction or the other-unless we either downsize the nation's commitments, an option I would oppose, or fund adequately our ability to keep them-I oppose passage of this bill.

James M. Talent.

ADDITIONAL VIEWS OF ROSCOE G. BARTLETT

I am very pleased at the work the Committee has done this year in preparing its mark to the FY 95 Defense Authorization bill. The hard work of the members of the Committee and its staff should be duly noted and it is for this reason that I voted in favor of reporting the bill out of Committee so that it may be considered on floor.

As a member of the Military Forces and Personnel Subcommittee, I was extremely pleased with the hard work and dedication shows to our service men and women by the Chairman and ranking Republican member. Inclusion of a 2.2% pay raise for our soldiers, sailors and airmen will provide a huge boost in morale during a time when are service personnel are stretched as far as they can go.

However I have a major philosophical difference with the Administration that needs to be addressed.

First, as I have stated during many hearings, I can not support a military budget based on dollar figures derived out of the air. DoD was originally tasked with creating a multi-year plan for America's future security, detailing a budget the United States need to protect and advance its interests in the post-Cold War era.

Unfortunately, the results were a national security plan geared to meet the President's dollar targets, without regard to real threats or abilities to carry out its missions [two simultaneous Major Regional Conflicts (MRC)]. This belief was confirmed by Vice President Gore's Report of the National Performance Review in which he stated "Defense has launched a Bottom-Up Review (BUR) to meet the President's 1994-1997 spending reduction target."

The Armed Services Committee was thus forced to create the best fighting force to fit the dollars available. The budget however does not provide the necessary dollars to fund the prescribed end-strength. In addition, the prescribed end-strength, according to many committee witnesses, is too small to defeat the assumed threat. Ten divisions, 12 carriers and 18 air wings simply can not carry out two major regional conflicts. As Chairman Skelton has said, "We simply cannot get there from here with what we've got."

Lastly, I believe that the Bottom-Up Review (BUR) has miscalculated the possible threat. While we indeed have won the Cold War, the world is still an extremely dangerous place. Even though the Soviet Union, as we once knew it, no longer exists the Republics of that region continue to possess nuclear warheads sited at the United States. Regional powers such as North Korea and Iraq threaten, and Bosnia reveals what entire regions could be someday if long festering ethnic rivalries errupt.

It is my hope that the Armed Services Committee will re-examine the threat analysis ofthe BUR and the force structure required to meet that threat.

Roscoe G. Bartlett.